(2013) 01 JH CK 0025

Jharkhand High Court

Case No: LPA No. 465 of 2011 with I.A. No''s. 275 and 276 of 2012

The State of Jharkhand		APPELLANT
	Vs	
Tulsi Yadav and Others		RESPONDENT

Date of Decision: Jan. 28, 2013

Citation: (2013) 4 JLJR 197

Hon'ble Judges: Prakash Tatia, C.J; Jaya Roy, J

Bench: Division Bench

Advocate: A.K. Mishra, for the Appellant; Indrajit Sinha, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

1. Heard learned counsel for the parties. The petitioners-respondents were given license to supply foodgrains to different PDS dealers, for which an agreement was executed on 4th February, 2010 fixing a rate for transportation, which was modified by the order of the Deputy Commissioner of the area dated 29th June, 2010 and in consequence thereof, new agreement was entered on 1.7.2010 between the parties. That new agreement was sought to be cancelled on the ground that the rate could not have been enhanced retrospectively even in the light of the Government''s decision dated 19th April, 2010, conveyed by the Principal Secretary of the Department to all the Deputy Commissioners. Learned Single Judge found that the new agreement was in consonance with the Government''s order dated 19th April, 2010. and therefore, the respondent-appellant could not have demanded back the payment made to the petitioners-respondents on enhanced rate for the month of April, May and June, 2010, which was in terms of the new agreement.

2. The appellant is aggrieved against the judgment of the learned Single Judge dated 17th September, 2011. According to the learned counsel for the appellant, firstly the existing agreement holders of 4th February, 2010 were not covered under the order dated 19th April, 2010 and secondly, the first rate was fixed by the tender committee, which could not have been modified by the Deputy Commissioner

consequently.

3. We considered the submissions of the learned counsel for the parties and perused the facts of The case, which have been referred above. It is clear from the order dated 19th April, 2010 that it was the decision of the Government a higher authority than tender committee, which was conveyed to all Deputy Commissioners and specifically the fund was allocated which was to be given to the Door Step Delivery licensees and it has been made clear that the rate was enhanced and would be paid after ensuing election. Therefore, we are of the considered opinion that in view of the decision of the Government and not of the lower authority than that of tender committee and since the fund was allocated for the existing licensees, learned Single Judge was right in holding that the new agreement superseded the earlier agreement and there is no illegality in the impugned order. L.P.As., thus, having no merit, are dismissed alongwith the stay petitions.