

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P.NO. 226 OF 2001

PETITIONER:

M/s Vinod Parabailing Industries  
through its Sole Proprietor  
Vinod Kumer Jain, son of late  
L.C.Jain, aged 48 years,  
R/o Abhanpur, district Raipur  
(C.G.).

Vs.

RESPONDENTS: 1.

State of Chhattisgarh  
through Secretary  
Department of Food,  
Mantralaya, Raipur.

2. The Collector (Food section)  
Raipur.

3. Food Corporation of India  
through District Manager,  
Raipur, district Raipur

4. Additional Commissioner,  
Raipur Division, Raipur  
Raipur (Chhattisgarh).

PETITION UNDER:

INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MANDMUS

AND OTHER SUITABLE WRIT/WRITS, ORDER/DEBARS AND,

DIRECTION/DIRECTIONS.

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186

आदेश पत्रक

माभला क्रमांक W.P.No. 226/01 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><b><u>28-10-2002</u></b></p> <p>Shri N.C. Jain, Sr. Counsel with Shri Manindra Shrivastava, counsel for the petitioner.</p> <p>Shri Sanjay K Agarwal, Dy. Adv. General for the respondent No.1.</p> <p>Shri R.K. Gupta, counsel for the respondent No.3.</p> <p>Though the matter was in the list at Sr.No.74, on a mention being made by the learned counsel for the petitioner, who is an outside counsel, the matter is taken up in the second half.</p> <p>The petitioner is a wholesale dealer (food-grain) under the provisions of M.P. Scheduled Anusuchit Vastu Vyapari (Anuguapan Tatha Jamkhori Par Nirbandhan) Aadehs, 1991, for which he has a licence.</p> <p>Admittedly, a notice was issued by the Additional Collector, Raipur to the petitioner regarding certain irregularities committed by him during the course of his business transactions and non-payment of levy. Ultimately, an order was passed requiring the petitioner to pay levy within a period of thirty days. Subsequent thereto, the petitioner had approached the Food Corporation of India (FCI) requiring it to intimate where the levy rice was to be</p>	

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	<p>deposited. However, the Corporation did not give any information with the result that levy rice could not be deposited. It is not disputed that levy was <sup>to be</sup> deposited in terms of the order of the Additional Collector, Raipur, who though ordering the payment of levy did not assess the price which was to be paid to the petitioner by the FCI. According to the petitioner, in order to pay the levy he had purchased the said quantity of rice from the open market but could not deposit the same because of the inaction on the part of the respondent No.3- FCI. Accordingly, he has approached this Court for a direction to the Food Corporation of India- respondent No.3 to intimate the place / godown where the levy rice is to be tendered / handed over and also for a direction to the FCI to pay the price at the rate prevailing at that point of time.</p> <p>When the matter had come up before the Court on 05-08-2002, it was brought to the notice of this Court that there was some possibilities of a settlement between the parties and accordingly, the matter was adjourned to 16-8-2002. On 16-8-2002, learned counsel for the petitioner informed the Court that decision has been taken by Food Corporation of India to accept the levy in terms of the order of the Additional Collector, Raipur (copy, whereof is Annexure P-4 to the</p>	

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188  
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## आदेश पत्रक

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	<p>writ petition). However, the dispute, which remains to be settled, relates to the specification of the rice and the price to be paid. According to the petitioner, the firm dealt only in paraboiled rice. But it appears from the record that they were dealing in raw rice also.</p> <p>Learned counsel for the petitioner had invited the Court's attention to Clause III &amp; IV of the M.P. Rice Procurement (Levy) Order, 1970, and Scheduled annexed thereto that the price payable would be the price prevailing on the date when the levy is paid. However, learned counsel for the FCI, submitted that since the levy became due in the year 1994-95, the price payable would be the price prevailing at that point of time. Finding the contention of the learned counsel to be reasonable, the Court had given some time to the parties to work out a settlement and the matter was adjourned. However, it appears that no settlement could be arrived at regarding the price.</p> <p>Considering the facts and circumstances of the case and the material available on record, the Court feels that it would be appropriate to direct the Collector, Raipur to take an appropriate decision regarding price, which is to be paid by the FCI to the petitioner. The Collector may himself take a decision or refer the</p>	<p>- 3 -</p>

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	<p>matter to <del>an</del> an appropriate officer not below the rank of Additional Collector. As agreed to by the learned counsel, the parties shall enter appearance before the Collector on 07-11-2002 along with the copy of this order, on which date the Collector or such other officer before whom the matter has been placed, as the case may be, may fix a date and take an appropriate decision after hearing the parties in the light of the order of this Court within a period of thirty days thereafter.</p> <p>Learned counsel for the petitioner stated that in some cases <del>there are instances that</del> the Food Corporation of India has made payment at the rate prevailing at that point of time when the levy was actually paid. As the Court is not considering the merits of the contention at this stage, it feels that these are the facts <sup>that</sup> may be placed before the appropriate officer for his consideration, who will be free to pass an appropriate order on the merits within the period fixed above.</p> <p>With the aforesaid directions and observations the petition stands disposed of.</p> <p>Certified copy as per rules.</p>	<p>Sd/- P. C. Naik Judge</p>

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