

Khagendra Nath Vs. Junior Assessor, Procurement P.S. Sonarpur

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Court : Kolkata

Decided On : Jun-04-1953

Reported in : AIR1953Cal719,57CWN684

Judge : P.N. Mookerjee and ;Guha Ray, JJ.

Acts : West Bengal Foodgrains (Intensive Procurement) Order, 1952

Appeal No. : Civil Revn. Case Nos. 934, 1036 and 1312 of 1953

Appellant : Khagendra Nath

Respondent : Junior Assessor, Procurement P.S. Sonarpur

Advocate for Def. : Hemendra Kumar Das and ;Smriti Kumar Roy Choudhury, Advs.

Advocate for Pet/Ap. : Biswa Nath Naskar, ;Bankim Chandra Roy, Advs. in 934, ;Sen Gupta, ;Benoy Krishna Mukherjee, Advs. in 1036 and ;Nitya Ranjan Biswas, Adv.(Not Present) in 1312

Judgement :

ORDER

1. These three Rules arise out of proceedings under the West Bengal Foodgrains (Intensive Procurement) Order, 1952. The Rules are directed against the order of the appellate officer rejecting the petitioners' appeals under the amended provision

of the said Order giving a right of appeal to the persons aggrieved. Under the said provision the appeal has to be filed 'within seven days from the date of service of the order in Form No. C', -- to quote only the relevant part of that provision, --and in the particular cases before us it has been alleged by the petitioners,--and it has not been denied on behalf of the State--that the appeals in question were duly filed within the said time. In Civil Revision Cases Nos. 934 and 1036, the appeals were actually presented within three days of the date of service of the orders in Form No. C and in the other case the appeal was presented within six days from the date of such service. Clearly, therefore, the appeals were within time and it is surprising that the appellate officer has thrown cut the appeals on the ground that they are time-barred and no extension of time is possible as Section 5 of the Limitation Act can have no application to such cases. It may be that this latter proposition of the appellate officer is quite-correct and Section 5 of the Limitation Act may not apply to cases of appeals under the West Bengal Foodgrains (Intensive Procurement) Order, 1952, but at the same time it is quite clear that no question of extension, of time and noquestion, therefore, of applying Section 5 of the Limitation Act to the present cases arises or could have possibly arisen. This position, as we have already indicated, is not controverted by the State. These Rules are, therefore, made absolute with costs, hearing fee being assessed at three gold-mohurs in each case. The petitioners' appeals will be accepted as duly presented in time and will be heard now on the merits and decided according to law by the appellate officer.

2. Before leaving this subject, we think it proper to point out that it has been alleged before us that in the group of appeals in which the three cases before us were included for hearing, there were other cases where also no question of limitation could have arisen upon the admitted facts and even those cases have been dismissed on the ground of limitation. If that is a fact, it is only fair that the learned appellate officer should examine the records of these cases and pass appropriate orders so that the subject's rights guaranteed by the statute may not be unlawfully or unduly prejudiced. When the statute has given a right of appeal, it is not only desirable--but it is just and proper and only fair,--that this right of appeal should be allowed to be exercised in accordance with law. The officers entrusted with the hearing of such appeals should be particularly careful that their orders do

not amount in effect to a denial of this right of appeal.

3. It has also been brought to our notice that these cases, namely, appeals under the Order, referred to above, are almost invariably taken up in batches of very large numbers and it may be that there is some substance in the general complaint that individual cases do not get proper treatment on their merits. If that is so, the result undoubtedly is that there is denial of justice to the people concerned and their statutory rights are not duly recognised or respected and they are not given the protection to which, to say the least, they are legitimately entitled. It is only desirable that this aspect of the matter also should be kept in view when appellate officers deal with appeals under the West Bengal Foodgrains (Intensive Procurement) Order, 1952.

4. We would not make any further observations in these cases but we expect that the appellate officers will act and guide themselves in future in the matter of appeals under the Order in question in the light of the observations we have made in these Rules.

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