



2024 INSC 999

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1889 OF 2023

PAWAPURI RICE MILLS

... APPELLANT(S)

Versus

**THE BIHAR STATE FOOD AND
CIVIL SUPPLIES CORPORATION
LTD. & ORS**

... RESPONDENT(S)

WITH

CIVIL APPEAL NO. 1892 OF 2023

WITH

CIVIL APPEAL NO. 1902 OF 2023

WITH

CIVIL APPEAL NO. 1905 OF 2023

WITH

CIVIL APPEAL NO. 1903 OF 2023

WITH

CIVIL APPEAL NO. 1904 OF 2023

WITH

CIVIL APPEAL NO. 1908 OF 2023

WITH

CIVIL APPEAL NO. 1909 OF 2023

WITH

CIVIL APPEAL NO. 1911 OF 2023

WITH

CIVIL APPEAL NO. 1910 OF 2023

WITH

CIVIL APPEAL NO. 1914 OF 2023

WITH

CIVIL APPEAL NO. 1912 OF 2023

WITH

CIVIL APPEAL NO. 1913 OF 2023

WITH

CIVIL APPEAL NO. 1915 OF 2023

WITH

CIVIL APPEAL NO. 1916 OF 2023

WITH

CIVIL APPEAL NO. 1917 OF 2023

WITH

CIVIL APPEAL NO. 1890 OF 2023

WITH

CIVIL APPEAL NO. 1891 OF 2023

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CIVIL APPEAL NO. 1895 OF 2023

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CIVIL APPEAL NO. 1894 OF 2023

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CIVIL APPEAL NO. 1898 OF 2023

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CIVIL APPEAL NO. 1896 OF 2023

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CIVIL APPEAL NO. 1893 OF 2023

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CIVIL APPEAL NO. 1899 OF 2023

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CIVIL APPEAL NO. 1897 OF 2023

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CIVIL APPEAL NO. 1900 OF 2023

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CIVIL APPEAL NO. 1901 OF 2023

WITH

CIVIL APPEAL NO. 1906 OF 2023

WITH

CIVIL APPEAL NO. 1907 OF 2023

J U D G E M E N T

S.V.N. BHATTI, J.

1. Common issues of fact and law arise in the instant batch of Appeals under the Bihar and Orissa Public Demands Recovery Act, 1914 (for short, '**the Act**') and the Bihar and Orissa Public

Demands Recovery Rules (for short, '**the Rules**'), hence, these Appeals are disposed of by this Judgment.

I. BACKGROUND

- 2.** The appellants in Civil Appeal No. 1890 of 2023 and Civil Appeal No. 1889 of 2023 are rice millers in the State of Bihar. The first respondent in the Civil Appeals is the State of Bihar, and the fourth respondent is the Bihar State Food and Civil Supplies Corporation. For convenience, the appellants are referred to as '**Rice Millers**' and the contesting respondents as the '**State**' and '**Civil Supplies Corporation,**' respectively. The subject matter of the Appeals relates to the procurement of Custom Milled Rice (for short, '**CMR**') for the procurement year 2011-12 in the State of Bihar. The subject procurement policy departs from the previous policy of collecting levy rice from the Rice Millers. As is known from practice and scheme, levy rice is a system requiring millers to sell a percentage of their rice to the Government at a particular price. Under the levy rice procurement scheme, the Rice Millers buy paddy directly from the farmers at the Minimum Support Price (for short, '**MSP**') and sell a percentage

of rice to the Government at a specified price. The Government may purchase the rice from the millers or farmers to implement the Public Distribution System (for short, '**PDS**'). The scheme of levy rice was replaced with the present procurement policy of CMR. In this Judgment, we are not examining the reasons or wisdom for the shift in the State's policy because the State knows what a good and correct policy is while administering and implementing its welfare schemes.

3. In the changed set-up, on 11.11.2011, the Ministry of Consumer Affairs, Food and Public Distribution, Government of India, conveyed the fixation of provisional rates of CMR and the cost of gunny bags of fifty kilograms used in the procurement scheme. The State, through the Development Commissioner, issued the memo dated 07.12.2011, setting out the objectives and major features in the implementation of procurement of thirty lakh metric tons of paddy from the farmers in the State of Bihar for the procurement year 2011-12. The Civil Supplies Corporation has a role to play as the nodal agency of the State for the procurement of paddy during the year 2011-12. In

furtherance of such an arrangement, the Development Commissioner, Food and Consumer Protection, Government of Bihar issued the letter dated 07.12.2011 appointing Bihar State Food Corporation as the nodal agency for procuring paddy and entrusting the paddy to Rice Millers for CMR. This letter was sent to all Divisional Commissioners and District Magistrates in the State. The Rice Millers, as per the scheme, are required to enter into an agreement with the State and Civil Supplies Corporation for milling the paddy procured from the farmers. It is a matter of record that the Rice Millers have entered into an independent agreement with the Civil Supplies Corporation. The features of the agreement are that the Rice Millers are required to deliver 67% of raw rice or 68% of par-boiled rice for hundred quintals of paddy in advance, and the Civil Supplies Corporation releases proportionate paddy for CMR by the Rice Millers. The Rice Millers are under an obligation to supply CMR, as directed, to the designated depots/warehouses of the Food Corporation of India (for short, **FCI**).

3.1. The procurement period is from 15.11.2011 to 30.04.2012. A dispute on the discharge of obligations by the Rice Millers had arisen with the Civil Supplies Corporation. As per the contractual obligations, the Rice Millers asserted that they had milled the rice and were ready to supply CMR to the FCI. Because of a few issues with the FCI, the CMR agreed to be delivered by the Rice Millers was neither accepted nor taken forward. The contesting parties have their own views on the default of performance of obligations. We need not refer to either side's case on this behalf to dispose of the appeals. This dispute over the Rice Millers' non-supply of CMR led to the initiation of recovery proceedings by the Civil Supplies Corporation under the Act and the Rules before the Certificate Officer. The District Collector/District Certificate Officer issued Recovery Certificates to the Civil Supplies Corporation, and the details are noted as follows:

Sl No.	Civil Appeal No.	Petitioner	Amount
1.	1889/2023	PAWAPURI RICE MILLS	Rs.10,15,94,961.94/-
2.	1892/2023	PAWAN KUMAR	Rs.41,99,218/-

3.	1902/2023	RAJESH KUMAR MEHTA	Rs.1,63,75,957.87/-
4.	1905/2023	AMOD KUMAR SINGH	Rs.30,02,092.42/-
5.	1903/2023	MANISH KUMAR	Rs.18,53,420.24/-
6.	1904/2023	PRANAV KUMAR SINGH	Rs.1,86,36,210.21/-
7.	1908/2023	M/S. UMA RICE MILL	Rs.88,44,815/-
8.	1909/2023	M/S. MUZAFFARPUR MODERN RICE MILL THR. ITS PARTNERS AND ORS.	Rs.23,26,795.00/-
9.	1911/2023	CHANDRASHEKHAR SAH	Rs.38,44,676.00/-
10.	1910/2023	RAJ KUMAR RAI	Rs.2,91,78,200.00/-
11.	1914/2023	WAKIL PRASAD YADAV	Rs.45,77,027/-
12.	1912/2023	SULEKHA KUMARI	Rs.26,28,780/-
13.	1913/2023	M/S. SHANKAR RICE MILL	Rs.53,43,912/-
14.	1915/2023	ASHOK KUMAR	Rs.82,96,336.45/-
15.	1916/2023	ASHOK KUMAR	Rs.4,62,78,797/-
16.	1917/2023	M/S NARAYAN RICE MILL	Rs.19,99,390/-

17.	1890/2023	SONE VALLEY RICE MILL	Rs.4,66,68,330/-
18.	1891/2023	SACHINDRA KUMAR RAI	Rs.3,56,26,841.01/-
19.	1895/2023	M/S MAA LAXMI SILKY RICE MILL	Rs.5,21,46,846/-
20.	1894/2023	PURSHOTTAM PRASAD	Rs.1,46,30,844.76/-
21.	1898/2023	GANESH PRASAD JAISWAL	Rs.28,23,921.39/-
22.	1896/2023	M/S. AKASH FEED PVT. LTD.	Rs.6,60,41,846.32/-
23.	1893/2023	M/S MAA JAGDAMBA RICE MILL	Rs.2,19,61,092.53/-
24.	1899/2023	M/S PUJA RICE MILL	Rs.1,29,54,301.40/-
25.	1897/2023	M/S GANGOTRI RICE MILL	Rs.58,13,662.50/-
26.	1900/2023	ABINASH KUMAR SINGH	Rs.9,91,29,305/-
27.	1901/2023	RAKESH KUMAR	Rs.88,53,551/-
28.	1906/2023	MUNNA PRASAD	Rs.85,58,508/-
29.	1907/2023	RAMESH BHUSHAN	Rs.1,17,06,648/-

- 4.** For convenience, Civil Appeal No. 1890 of 2023 – *Sone Valley Rice Mill v. The State of Bihar and others* and Civil Appeal

No.1889 of 2023 – *Pawapuri Rice Mills v. Bihar State Food and Civil Supplies Corporation Limited and others* are treated as lead cases, and the circumstances noted in these two appeals are adverted for disposing of the batch of appeals.

A. SONE VALLEY RICE MILLS

- 5.** On 22.12.2011, the Rice Miller and the Civil Supplies Corporation entered into an agreement for CMR for the procurement year 2011-12. On 13.02.2012, the Rice Miller called upon the Civil Supplies Corporation to do the needful for lifting the CMR to the allotted warehouse/depot of the FCI. It is averred by the Rice Miller that a follow-up letter was sent to the District Manager of the Civil Supplies Corporation to discharge the obligations under the agreement fastened on the Civil Supplies Corporation. On the respective views held by the contesting parties, a few letters have been exchanged; however, reference to the correspondence is unnecessary for the purpose of this Judgment. Hence, the correspondence is not adverted to. On 10.05.2013, the District Manager-Kaimur sent a letter in Form II to the District Certificate Officer-Kaimur requesting

initiation of recovery proceedings under the Act. On 11.05.2013, the District Magistrate-Kaimur issued a Recovery Certificate in Form I (Certificate of Public Demand) for a sum of Rupees four crore sixty-one lakh forty-nine thousand one hundred and fifty-two (Rs. 4,61,49,152/-) in favour of Civil Supplies Corporation. On 13.05.2013, Form 3 (Certificate of Notice) under section 7 of the Act in Case No. 36(Y)/2012-13 was communicated to Sone Valley Rice Mill on the initiation of recovery proceedings under the Act.

6. C.W.J. No. 13746 of 2013 was filed by Sone Valley Rice Mills in the High Court of Patna, praying to set aside the Certificate Proceedings and Notice dated 13.05.2013. It is a matter of record that, on 29.07.2013, the Rice Miller, in response to the notice dated 13.05.2013, was permitted to file a reply before the District Magistrate-Kaimur. On 02.08.2013, the primary authority decided the representation and issued a warrant of even date. On 13.09.2013, the District Magistrate-Kaimur passed an order directing the rice mill owner to deposit sixty per cent in two equal instalments, and coercive steps were deferred

for the present. On 28.10.2013, the District Magistrate held that the subject recovery of Rupees four crore sixty-one lakh forty-nine thousand one hundred and fifty-two only (Rs. 4,61,49,152/-) can be effected under the Act, since the amount comes under clause 8-A of Schedule I to the Act. Subsequently, I.A. No. 8778 of 2013 was filed by the Rice Miller, including a challenge to the Order dated 13.09.2013 in the Writ Petition.

B. PAWAPURI RICE MILLS

7. The facts of Civil Appeal No. 1889 of 2023 follow a similar tangent to that of Civil Appeal No. 1890 of 2023. On 17.12.2011, an agreement was executed between the Rice Miller and the Civil Supplies Corporation concerning CMR for the procurement year 2011-12. Subsequently, the Rice Miller sent formal letters to the District Manager to lift the CMR from the depot/warehouse to enable further milling. The State Civil Supplies Corporation, on 16.03.2013, sent a letter requiring the Rice Miller to deposit the remainder of paddy. Following this, on 07.05.2013, the Certificate Officer initiated certificate

proceedings against the Rice Miller in Certificate Case No. 20/13-14 demanding Rupees ten crore fifteen lakh ninety-four thousand nine hundred and sixty-one, and ninety-four paise (Rs. 10,15,94,961.94/-).

II. PROCEEDINGS IN THE HIGH COURT OF PATNA

- 8.** On 22.07.2014, the Learned Single Judge in the Rice Millers' Writ Petition No. 13746/2013 and batch, set aside the recovery proceedings initiated. However, liberty was given to the Civil Supplies Corporation to initiate legal proceedings in accordance with the agreement and recover the amount due from the Rice Miller. The instant judgement accepted the argument of Rice Millers (i) that initiation and continuation of the certificate proceedings under the Act against them is without jurisdiction and illegal; (ii) the demand is not a public demand within the scope of section 3(6) of the Act, read with Clause 8-A of the Schedule; (iii) that the relationship between the miller and the Civil Supplies Corporation stems from an agreement entered between the parties concerning the delivery of advanced rice

and consequent lifting of paddy; (iv) deliver at the authorised warehouse/depot; (v) payment of milling charges is an issue; (vi) clauses 11 and 12 of the agreement provide for forfeiture of the security deposit made by the Rice Miller for breach of a condition; (vii) the agreement does not indicate that the paddy supplied by the Civil Supplies Corporation is the property of the State and that paddy is made available to the Rice Miller for and on behalf of the State; (viii) the agreement does not enable the Civil Supplies Corporation to take recourse to the Act to realise the alleged demand as public demand; (ix) the Civil Supplies Corporation is not a subsidiary, and the Civil Supplies Corporation can sue and be sued independently; (x) the Civil Supplies Corporation, though a Government Company under section 617 of the Companies Act, 1956, the said status *ipse dixit* does not confer jurisdiction under the Act for realizing the due as a public demand.

9. Aggrieved by the judgement dated 22.07.2014 in Writ Petition No. 13746/2013, the Civil Supplies Corporation filed Letters Patent Appeal No. 1576 of 2014. On 20.05.2016, the LPAs filed

by the Civil Supplies Corporation were allowed. Hence, the Civil Appeals at the instance of the Rice Millers.

9.1. In the impugned judgement, the Division Bench noted that (i) the State does not procure paddy itself from the farmers for CMR, but it is procured through agencies to be delivered to the Rice Millers; (ii) In the final analysis, the failure of the Rice Millers to deliver rice to the FCI amounts to a breach of the agreed obligation; (iii) from the averments in the Writ Petition and Circular dated 07.12.2011, records that the paddy belonged to the State; (iv) the impugned judgment notes that the definition of public demand in section 3(6) of the Act read with clause 8-A of the Schedule to the Act is not exhaustive; (v) by interpreting the expression in clause 8-A of Schedule I appended to the Act, it is held that this clause contemplates outstanding loans and advances to the State, Department, or Official, by anybody; (vi) clause 15 contemplates any money payable to a company or statutory body in which the Government has a majority share; (vii) the paddy is supplied to the Rice Miller by the Civil Supplies Corporation after

purchasing from the funds made available by the State as its nodal agency, (viii) the Civil Supplies Corporation may not be the State itself or a Department of the Government or an official of the Government, but the nature of the transaction would go to show that the State is acting through the Civil Supplies Corporation for procurement of paddy and distribution through PDS system; (ix) the absence of a clause in the agreement enabling recovery under the Act would not be the determining circumstance; (x) the definition of public demand in section 3(6) of the Act read with clause 8-A of Schedule I is satisfied for initiation of recovery proceedings by the Civil Supplies Corporation from the Rice Millers on account of default in delivery of CMR. Hence, the Civil Appeals at the instance of Rice Millers.

III. SUBMISSIONS

- 10.** We have heard learned Senior Counsel Shri Navneeti Prasad Singh and Shri Amit Sibal for the Rice Millers and Shri Manish Kumar, learned Advocate-on-Record for the Civil Supplies Corporation.

11. The Senior Counsel would contend that the recovery initiation proceedings under the Act for the alleged sums due from the Rice Millers as public demand, is *ex-facie* illegal and without jurisdiction. The Act is applicable upon satisfying a *sine qua non, viz.*, the demand must be a public demand under section 3(6) read with Schedule I to the Act. Clauses 8 and 15 of Schedule I to the Act are inapplicable. A plain reading or interpretation of clause 8-A would demonstrate that the subject recovery is not covered by the plain meaning of these provisions. The three expressions in clause 8-A are not attracted to the Civil Supplies Corporation because it is neither the Government nor a Department/Official of the Government. Even if the Civil Supplies Corporation acts as an agent of the Government, the dues of the Corporation do not become the dues of the Government and cannot fall within the definition of 'public demand'. The paddy is not purchased from the amount made available by the State Government but from the amount made available by the FCI.

11.1. Alternatively, it is argued that assuming the Government has advanced money to Civil Supplies Corporation for the purchase of paddy, the paddy does not automatically become the property of the Government. The default in delivery of CMR is a breach of the agreement between the Rice Millers and the Civil Supplies Corporation. The alleged breach by the Rice Millers is a cause for consideration by a civil court in a duly instituted suit for recovery of an amount equivalent to undelivered CMR. Whether the Rice Millers or the Civil Supplies Corporation is in default would be the foremost issue for decision before terming the claim of Civil Supplies Corporation as a recoverable sum. The initiation of recovery proceedings on unadjudicated claims for alleged breach of contractual obligations is illegal. The recovery certificate under the Act was issued without deciding the existence of a jurisdictional fact.

11.2. It is further contended that the impugned judgement has not appreciated the circumstances preceding the recovery and expanded the scope of recoverable sums under clause 8-A of Schedule I to the Act. The reference to the Full Bench decision

in ***Ram Chandra Singh v. State of Bihar and others***¹ is untenable. Therefore, the impugned judgements are liable to be set aside. The recovery certificates do not conform to the procedure stipulated by the Act.

- 12.** Shri Manish Kumar, Advocate-on-Record, appearing for the respondents, argues that the Civil Supplies Corporation is a Government Company under section 617 of the Companies Act, 1956. The Memorandum and the Articles of Association of the Civil Supplies Corporation provide that it can act as an agent of the State, and in the subject procurement of paddy, the Civil Supplies Corporation acted as the Government's agent. The State changed the procurement policy of paddy by keeping it in line with the policy of the FCI and appointed the Civil Supplies Corporation as a nodal agency. There is no dispute that the Civil Supplies Corporation is a nodal agent and has duties and functions for implementing the procurement policy 2011-12. Taking the circumstances as presented by the Rice Millers, it would emerge that the State has formulated a policy for

¹ (1986) SCCOnLine Pat 229.

procuring paddy, converting it as CMR, supplying CMR to FCI, and, finally, distributing through PDS to eligible people. The Civil Supplies Corporation pays farmers the MSP stipulated for the season and makes over the paddy to the Rice Millers for CMR. The Rice Millers are required to deliver rice as per the specification at the designated depots of the FCI. The Civil Supplies Corporation is a nodal agency, and being the agent of the State, it is entitled to recover the cost of unsupplied rice from the Rice Millers through summary recovery under the Act. The characteristic of 'public demand' is decided from the totality of circumstances in the relationship between the Civil Supplies Corporation and the Rice Millers. The definition of section 3(6), read with clause 8-A of Schedule I to the Act, is attracted to the case on hand. According to him, the case on hand does not concern the scope of these provisions. The real consideration is the effect of the totality of circumstances governing, as noted by both parties, to decide the jurisdictional facts and apply the plain meaning of clause 8-A of Schedule I to the Act. The LPAs were allowed by relying on ***Ram Chandra Singh (supra)***. The

Full Bench of the High Court of Patna, in the said decision, has considered the scope, meaning, and extent of the definition of public demand. Replying to the contention of violation of procedure stipulated by the Act and the Rules, it is argued that the procedure has been complied with, the objections are considered, and an order is passed by the primary authority. The decision under the Act is subject to an appeal or a revision before the competent authorities. The statutory authorities have jurisdiction to correct errors of fact. The examination of merits by the Writ Court on these arguments is unmerited and liable to be rejected.

13. Having carefully considered the arguments presented by the parties and the relevant legal provisions, the following issues arise for our determination:

13.1. Whether the recovery by the Civil Supplies Corporation qualifies as a ‘public demand’ under the Act and the Rules?

13.2. Whether the Civil Supplies Corporation can initiate recovery proceedings under the Act against the Rice Millers as the nodal agency of the State Government?

13.3. Whether the procedural safeguards under the Act and principles of natural justice have been adhered to during certificate proceedings?

13.4. Whether the Rice Millers can avail alternate statutory remedies to challenge the recovery certificate?

IV. ANALYSIS

14. The first issue concerns the status of the Civil Supplies Corporation and whether, as a nodal agency, it qualifies to fall under the ambit of clause 8-A of Schedule I to the Act. This determination is crucial, as the recovery mechanism under the Act is available only to the State, its departments, and officials for the enforcement of public demands. The crux of the dispute is the distinction between a statutory body acting in a governmental capacity i.e., as a nodal agent, and acting purely with a commercial intent of its own. The answer depends on the consideration of jurisdictional facts.

15. On 01.07.1914, the Act was gazetted, and one of the objects was to consolidate and amend the law relating to the recovery of

public demands. On the existence of a jurisdictional fact for invoking the summary procedure, the contesting parties have relied on section 3(6) of the Act, and clauses 8-A and 15 of Schedule I to the Act. The provisions read thus:

“Section 3(6) –

“Public Demand” means any arrear or money mentioned or referred to in Schedule I and includes an interest which may by law be chargeable thereon up to the date on which a certificate is signed under Part II[.]

Schedule I –

Clause 8-A –

Any outstanding loans and advances are payable to the state government or to a department or official of the state government by anybody whatsoever.

Clause 15 –

Any money payable to –

- (i) State Bank of India constituted under the State Bank of India Act, 1955 (No.23 of 1955); or*
 - (ii) A bank specified in (ii) of the first schedule to the banking companies (Acquisition and Transfer or Undertaking) Act, 1970 (Act V of 1970); or*
 - (iii) a company or a statutory body, including a registered society carrying on financial transactions, owned by or in which Government has a majority of shares or which is managed by an authority appointed under any law for the time being in force; or*
 - (iv) the Bihar State Electricity Board.*
- in respect of which the person liable to pay the same has agreed, by a written instrument that it shall be recoverable as public demand.”*

16. Section 3(6), interpreted by the golden rule, presents the following limbs:

i. Public Demand means any arrear mentioned or referred to in Schedule I.

ii. Public Demand means money mentioned or referred to in Schedule I.

iii. Public Demand includes any interest which may by law be chargeable thereon up to the date on which a certificate is signed under part II.

17. Perusal of the definition on the indicated lines, nothing is determinative on who can and what amount can be recovered under the Act. The claims, types of causes, and the persons who can take recourse to summary proceedings are detailed or defined in Schedule I to the Act. The legislative wisdom is appreciated by noting that the classes, causes and claims eligible for summary recovery proceedings are decided by the clauses in Schedule I to the Act. Schedule I has as many as 15

clauses; thereby, through definition and incorporation in Schedule I, arrears or money to the State government, and also to a few statutory corporations and banks constituted under an enactment are given the flair or colour of public demand. Thus, meriting the initiation of summary recovery under the Act.

18. The above discussion takes us to clause 8-A of Schedule I, and by applying the golden rule of interpretation, clause 8-A presents the following facets:

(aa). Any outstanding loan payable to the state government by anybody whatsoever.

(ab). Any outstanding loan payable to a department by anybody whatsoever.

(ac). Any outstanding loan payable to an official of the State Government by anybody whatsoever.

(ba). Any advances payable to the state government by anybody whatsoever.

(bb). Any advances payable to a department by anybody whatsoever.

(bc). Any advances payable to an official of the state government by anybody whatsoever.

- 19.** The occasion to examine the scope of clause 15 arises only after examination of the scope of section 3(6) and clause 8-A on the one hand and, on the other hand, applying the circumstances of the case to these provisions of law. In other words, if the circumstances of the case are covered by clause 8-A, then clause 15 and its application need not be examined.
- 20.** As noted earlier, section 3(6) of the Act by itself does not decide who can be termed as a claimant/creditor before the certificate officer, i.e., the District Collector. The standing or locus before the certificate officer is determined by one or the other exigencies and descriptions of 'public demand' enumerated in Schedule I to the Act. It is contextual to note that Schedule I defines 'public demand' and does not limit the term to the original concept of recovery of land revenue, tax, and fee from the defaulters. A few claims otherwise recoverable through the normal process of law are included and defined as public demand under the Act. The words that have a bearing in clause

8-A are “any loan,” “advance,” “state,” “department,” or the “official.” The common object of recovery is from anybody whatsoever. The Rice Millers do not contend that clause 8-A is inapplicable if the subject Public Demand is payable to the State Government or Recoverable by the State Government. In other words, the argument proceeds on the premise that, with regard to the circumstances of the case, the Civil Supplies Corporation does not fit into the category of the “state”, “department”, or “officer of the state”. In our consideration, as part of the elimination process, it can be noted that the Rice Millers do not contend that the expression ‘anybody whatsoever’ does not take within its fold the Rice Millers. However, it is argued that the claimant and the claim before the certificate officer must come within one or the other expressions, namely loan/advance, State, department, or officer of the State. At the first brush, the contention canvased by the Rice Millers may sound an issue on the interpretation of clause 8-A. But on close scrutiny of the provisions, it transpires that the crux of the matter would be whether the amount being recovered through the summary

process under the Act, by the Civil Supplies Corporation is a Public Demand or not. In other words, the jurisdictional facts would clinch the issue one way or the other.

21. Before taking up jurisdictional facts, it is apt to refer to ***Ram Chandra Singh (supra)*** wherein the Full Bench considered the expression ‘public demand.’ Paragraph 9 of the said Judgement reads thus:

“9. Now, the articles in Sch. I have to be viewed in the context of the fact that the phrase “public demands” is intrinsically one of the widest amplitude. It is against this background that one has to construe the aforequoted definition given in S. 3(6) of the Act. This definition is by direct reference to Sch. I. The said schedule then has its heading as “Public Demands” and at the same time makes express reference to S. 3(6). It is thus manifest that S 3(6) and Sch. I are one integral whole which has to be construed as part and parcel of each other. But what perhaps calls for particular notice in this context is that under the Act the definition and concept of public demand becomes one of the widest amplitude. Even in its ordinary common parlance and dictionary meaning, a public demand is a wide ranging concept. However, this has been further and deliberately expanded by the legislature to include within its sweep any arrear or any money which may come to be mentioned or even referred to in Sch. I and include also any interest which may be chargeable thereon. Yet again it deserves highlighting that S. 3(6) of the Act is not merely an inclusive definition but expressly says that the public demand means whatever may be specified in Sch. I. In

the result even the broad sweep of public demand is further extended by the statute herein and, in my view, designedly so. In logical essence, this leads to the result that for the purposes of this Act a public demand includes all arrears of revenue or any money due or demand payable which finds place in Sch. I even by reference. It seems patent that the legislature has deliberately not attempted to define public demand or limiting the same. All the arrears of revenue, money or payable demands which the legislature chooses to incorporate in Sch. I become by virtue of the definition under S. 3(6) a public demand of which recovery can be made under the Act. The scheme of the definition under S. 3(6) of the Act and the frame of the articles of the schedule complementary thereto thus become a key to the interpretation of these provisions.”

- 22.** The definition of ‘public demand’ under section 3(6) is broad and inclusive. It incorporates any arrears mentioned in Schedule I and allows for recovery of such arrears under the Act. Clause 8-A further clarifies that any loan or advance payable to the State Government, its departments, or officials constitutes a public demand. The provision uses broad language, such as “any loan” and “anybody whatsoever,” indicating the legislative intent to create an all-encompassing framework for recovery. Clause 15 additionally specifies that debts owed to certain

banks and statutory bodies also qualify as public demands, provided that the liability is acknowledged in writing.

23. As held by the Full Bench of the Patna High Court in ***Ram Chandra Singh (supra)***, the term ‘public demand’ is of wide amplitude and encompasses all arrears or dues explicitly mentioned or implied in Schedule I. The deliberate legislative design of section 3(6) and Schedule I reinforces the inclusive scope of the term.

24. The Full Bench, in reaching such consideration, *inter alia* considered:

24.1. Legislative intent – to create a special procedure for the recovery of public demands, including those that may be strictly enforceable through ordinary civil procedure.

24.2. Public Interest – the recovery of public demands expeditiously is essential for the functioning of the State and its ability to provide public services and utilities.

24.3. Practical Considerations – the Full Bench recognised the practical difficulties in enforcing certain claims through

traditional legal process and the need for a more efficient and expeditious recovery mechanism.

25. By adopting the above interpretation of the words ‘public demand,’ the court ensures that the State can effectively recover undisputed dues owed to it expeditiously, thereby promoting public interest and efficient governance. We note with approval the view expressed in ***Ram Chandra Singh (supra)***.

26. The word loan is not defined by section 3 of the Act. In a given case, a loan could be money or in kind. The jurisdictional facts would decide whether the sum recovered from the Rice Millers is a loan or not. The Rice Millers have received paddy from the Civil Supplies Corporation for CMR. In the present case, the Civil Supplies Corporation, acting under the State Government’s policy, provided paddy to Rice Millers for custom milling and subsequent delivery of CMR to FCI depots. The claim for recovery of the cost of undelivered CMR is claimed as an arrear owed to a State-recognised nodal agent.

27. A jurisdictional fact implies the existence of a fact that is necessary to the validity of the proceeding, and without the

existence of such fact, the proceeding before the court, Tribunal, or Authority would be a nullity. In ***Arun Kumar v. Union of India***,² it is held that a jurisdictional fact is a fact that must exist before a court, tribunal or authority that assumes jurisdiction over a particular matter. It is the fact upon which an administrative agency's power through an act is dependent. The ratio in ***Ramesh Chandra Sankala v. Vikram Cement***³ is to the same effect.

- 28.** The Learned Single Judge has considered the memorandum or the agreement between the parties and the existence of a few clauses enabling recovery of outstanding dues through the regular civil court as the determining factors on jurisdictional issues. It is held that the absence of a clause in the agreement authorising recovery through a proceeding under the Act denudes the certificate officer's jurisdiction. The Division Bench, through the impugned Judgement, has taken note of the nature of the transaction, the definition of 'public demand', and

² (2007) 1 SCC 732 at 758.

³ (2008) 14 SCC 58 at 81.

whether the parties, by their acts, can confer jurisdiction on an authority or a court. In fine, the jurisdictional facts in the present case can be summed up as:

28.1. The existence of an agreement between the Rice Millers and the Civil Supplies Corporation for delivery of CMR.

28.2. The failure of the Rice Millers to deliver the agreed quantity of CMR.

28.3. The classification of the undelivered CMR's monetary value as a 'public demand' under the Act.

28.4. The undelivered quantity of CMR consists of the recoverable due from the Rice Millers as a public demand.

29. Upon examination of admitted circumstances and the alleged default in delivery of CMR, we are unable to subscribe to the view taken by the Learned Single Judge on the existence of jurisdictional facts. A cause of action is stated to be a bundle of facts set out in the plaint. Similarly, jurisdictional facts are determined by the totality of circumstances in a given case. It is as simple as not omitting from consideration what is obvious. Likewise, a relevant circumstance, even if obfuscated, is not

omitted from consideration while deciding a jurisdictional fact. Jurisdictional facts consist of a sequence of events or a bundle of circumstances. The relevant circumstances are determined on a case-to-case basis.

- 30.** Let us revert to the circumstances of the case on hand. The State Government, as part of the changed policy, has dispensed with the levy rice scheme from the Rice Millers. In place of purchasing the levy rice, the present policy substitutes availing the services of Rice Millers for CMR. We are not concerned with the subtle intricacies in the operation of the policy of CMR. Broadly, the paddy is purchased from the farmers by the state government or the Civil Supplies Corporation, and under the agreement, the paddy is transferred to the Rice Millers for conversion into CMR. The State is also acting as per the guidelines issued by the FCI. The whole scheme appears to be to purchase paddy at MSP, convert paddy into CMR, and deliver at the depots of FCI for the PDS. It is for this reason that the Civil Supplies Corporation is recognised as the nodal agency of the State. The Rice Millers cannot take up a convenient

argument by ignoring the role assigned to the Civil Supplies Corporation as a nodal agency by the State Government.

31. In the subject procurement year, the State Government aimed to procure thirty lakh metric tons of paddy from the farmers. The State Food Corporation and Civil Supplies Corporation have been assigned a few rights and duties to perform in this massive function as per the scheme. It is difficult to assume that the Civil Supplies Corporation, with its wherewithal of both manpower and financial ability, would have acted as an independent entity. The paddy is purchased either from the amount given by the state government or paddy received from primary agricultural societies. The control of the State Government and District Administration is evident, both from the circumstances noted in the impugned judgement, a letter dated 11.11.2011 of the Government of India, a letter dated 09.01.2012 of State Food and Civil Supplies Corporation, and a letter dated 11.01.2012 of the food and consumer department. Consequently, all the jurisdictional facts to accept the role of Civil Supplies Corporation as the nodal agent of the state

government have been satisfactorily established in this case. The agreement between the parties explicitly recognises the Civil Supplies Corporation's right to recover dues, and the non-delivery of CMR is a documented fact. These jurisdictional facts thus exist, thereby validating the certificate proceedings. In the present case, the claim for the cost of undelivered CMR aligns with this definition. Therefore, the claim qualifies as a 'public demand' recoverable under the Act.

- 32.** The learned Single Judge erred in narrowly interpreting the concept of 'public demand.' The court must consider the totality of circumstances to determine if a particular demand falls within the ambit of the Act. In this case, the State Government enabled the Civil Supplies Corporation to enter into an agreement with the Rice Millers for the procurement, milling, and distribution of paddy. The objection of Rice Millers is purely one of convenience and contravenes the conduct and the admitted contemporaneous circumstances. The non-compliance by the Rice Millers with the terms of the agreement

directly impacted the PDS, a matter of significant public interest.

- 33.** The Division Bench correctly held that the nature of the transaction, involving the procurement of public grain and its distribution, clearly falls within the definition of ‘public demand.’ The Civil Supplies Corporation, as a nodal agency of the State Government, was acting on behalf of the State to ensure the smooth functioning of the PDS.
- 34.** The argument that the absence of a specific clause in the agreement authorising recovery under the Act, thus negating the jurisdiction of the certificate officer, is untenable. The Act itself provides a comprehensive framework for the recovery of public demands. The nature of the transaction, the public interest involved, and the role of the Civil Supplies Corporation as the State’s nodal agency allows for the initiation of recovery proceedings before the Certificate Officer.
- 35.** We uphold the finding in the impugned judgement that the initiation of proceedings under the Act by the Civil Supplies Corporation, i.e., as the nodal agency of the state government.

The unaccounted deposit of rice at the depots of FCI certainly comes within the fold of public demand of the state government under section 3(6) of the Act. Therefore, the proceedings under the Act are maintainable before the certificate officer. Further, we hold that the jurisdictional fact on the initiation of recovery proceedings under the Act is available and legal. We are in complete agreement with the view expressed in the Judgement impugned in the Civil Appeals.

36. The impugned judgement correctly determined that the recovery proceedings initiated by the Civil Supplies Corporation were valid and justified. The court has appreciated the facts of the case and applied the law correctly. The nature of the transaction between the State Government and the Rice Millers, involving the procurement, milling, and distribution of public grain, clearly falls within the ambit of “public demand” as defined in the Act. The certificate officer’s jurisdiction to initiate recovery proceedings is thus established.

37. The next limb of the argument is that the continuation and the concluding of proceedings by the certificate officers are vitiated

by procedural irregularities. The arguments on this behalf are already referred to in the preceding paragraphs. To capture the arguments in a nutshell, it is noted that the initiation is not in accordance with the procedure stipulated under the Act, the procedure prescribed by the Act is not followed, and the principles of natural justice are violated.

- 38.** The Act is a comprehensive and codified enactment that provides adequate safeguards for parties facing recovery actions. Parts II and IV of the Act outline the procedures for filing, serving, and contesting recovery certificates, as well as provisions for appeal, revision, and review. Procedural Safeguards: Part II of the Act outlines the procedure for filing, serving, and adjudicating certificates. Sections 43 and 44 provide remedies to challenge certificates in civil courts on specific grounds. The section provides for a time limit of 6 months for availing the remedy to move to the Civil Court. Sections 60, 62, and 63 deal with appeal, revision, and review of the orders made under the Act.

- 39.** The Division Bench rightly emphasised the availability of these statutory remedies to the aggrieved persons. The Rice Millers, by invoking writ jurisdiction, have failed to exhaust statutory remedies at the first instance.
- 40.** Mr. Manish Kumar has placed before us the photocopies of the proceedings of the certificate officer, and argued that these proceedings have been initiated in due compliance with the provisions of the Act and have been concluded by duly considering the objections raised by the Rice Millers. In other words, the argument proceeds that there is no procedural infirmity in the respective certificates issued in favour of the Civil Supplies Corporation. Hence, the civil appeals are also liable to be dismissed by rejecting the contentions on procedural deviation.
- 41.** We have perused the record and are of the view that the Rice Millers invoked the writ remedy by raising a jurisdictional fact against realising the sums as a public demand under the Act. As a writ court or in an appeal under Article 136, we are not examining the contentions on alleged procedural deviations.

We, however, leave it open to the respective Rice Millers to avail a statutory remedy as may be available under the Act. For availing a statutory remedy, we grant thirty days from today to the Rice Millers.

- 42.** In the event of a Rice Miller availing a statutory remedy as permitted by this Judgment, the said authority shall entertain the case without reference to the delay and the period of limitation in availing a remedy before the said authority. With the above observation, the civil appeals stand dismissed. No order as to costs.

.....J.
[HRISHIKESH ROY]

.....J.
[S.V.N. BHATTI]

**NEW DELHI;
DECEMBER 18, 2024.**