

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12796 of 2015

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1. Bijendra Kumar Singh son of Jai Prakash Narayan Singh, resident of village- Aharailiya, Police Station- Chiraiya, District- East Champaran (Motihari), at present Chairman, Khartary Purawi Primary Agriculture Co-operative Society, Block Chiraiya, District- East Champaran (Motihari).
 2. Ram Darshan Shah, son of Ram Lagan Sah, resident of village+P.O. Khartary, Police Station- Chiraiya, District- East Champaran (Motihari), at present Chairman, Khartary Madhya Primary Agriculture Co-operative Society, Block Chiraiya, District- East Champaran (Motihari).

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Co-operative Department, Govt. of Bihar, Patna.
3. The Divisional Commissioner, Tirhut Division Muzaffarpur.
4. The District Magistrate, East Champaran at Motihari.
5. The Senior Deputy Collector, East Champaran at Motihari.
6. The District Cooperative Officer, East Champaran at Motihari.
7. The Deputy Collector, Land Reforms, Sikarahana, District- East Champaran (Motihari).
8. The Block Development Officer cum the then Enforcement Officer, Chiraiya, District- East Champaran.
9. The Circle Officer cum Enforcement Officer, Chiraiya, District- East Champaran.
10. The Block Cooperative Extension Officer, Chiraya, District- East Champaran.
11. The Block Extension Officer cum Incharge, Purchase Centre, Chiraiya, District- East Champaran.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 13188 of 2015

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1. Suman Thakur son of Shri Chintamani Thakur, resident of village- Mathia Mohan, P.O. Pachpakari, Police Station- Dhaka, District- East Champaran (Motihari), at present Chairman, Barharwa Shiwan Primary Agriculture Co-operative Society, Block Dhaka, District- East Champaran (Motihari).
2. Shyam Kishore Giri son of Late Bishundeo Giri, resident of village + P.O. Gurhanwa, Police Station- Kundwa Chainpur, District- East Champaran (Motihari), at present Chairman, Gurhanwa Primary Agriculture Co-operative Society, Block Dhaka, District- East Champaran (Motihari).
3. Md. Parwez Alam son of late Abdul gani, resident of village- Balua Gua Bari, P.O. Balua Tola, Police Station- Kundwa Chainpur, District- East Champaran (Motihari), at present Chairman, Balua Gua Bari Primary Agriculture Co-operative Society, Block Dhaka, District- East Champaran (Motihari).
4. Madhurendra Kumar son of late Ram Babu Singh, resident of village + P.O. Karsahia, Police Station- Dhaka, District- East Champaran (Motihari) at present Chairman, Karsahia Primary Agriculture Co-operative Society, Block Dhaka,

District- East Champaran (Motihari).

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Co-operative Department, Govt. of Bihar, Patna.
3. The Divisional Commissioner, Tirhut Division Muzaffarpur.
4. The District Magistrate, East Champaran at Motihari.
5. The Senior Deputy Collector, East Champaran at Motihari.
6. The District Cooperative Officer, East Champaran at Motihari.
7. The Block Development Officer cum the then Enforcement Officer, Dhaka, District- East Champaran.
8. The Circle Officer cum Enforcement Officer, Dhaka, District- East Champaran.
9. The Block Cooperative Extension Officer, Dhaka, District- East Champaran.
10. The Block Extension Officer cum Incharge, Purchase Centre, Dhaka, District- East Champaran.

.... Respondent/s

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Appearance:

(In CWJC No. 12796 of 2015)

For the Petitioner/s : Mr. Umesh Kumar Mishra, Advocate

For the Respondent/s: Mr. G.P. Ojha, GP-22

For the B.S.F.C. : Mr. Shailendra Kumar Singh, Advocate

(In CWJC No. 13188 of 2015)

For the Petitioner/s : Mr. Umesh Kumar Mishra, Advocate

For the Respondent/s : Mr. Yogendra Pd. Sinha, AAG-15

For the B.S.F.C. : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 30-11-2015

Heard Mr. Umesh Kumar Mishra, learned counsel
appearing for the petitioners, learned counsel for the State and Mr.
Shailendra Kumar Singh for the Corporation.

These two writ petitions are in the chain of the writ
petitions filed by the different Cooperative Societies complaining
against the action of the respondent Corporation in not accepting the
delivery of paddy / custom milled rice ('CMR' for the sake of brevity)

so supplied by the petitioners society.

The two petitioners are societies registered under the Bihar Cooperative Societies Act, 1935 (hereinafter referred to as 'the Act'), are situated in the district of East Champaran and have a common grievance. The issue so raised by these petitioners came up for consideration before this Court in a batch of writ petitions arising from CWJC No. 10728 of 2015 (Auraiya Primary Agriculture Credit Cooperative Society vs. State of Bihar & ors.) which related to the societies situated in the district of East Champaran and this Court considering the rival contentions where it bordered on issues of fact relatable to the stock possessed by the societies and which was being disputed by the authorities of the Corporation as well as the State Government, directed for holding a fresh fact finding enquiry to be conducted under the supervision of the District Magistrate. It is pursuant to the orders passed by this Court aforementioned that a team was constituted by the District Magistrate, East Champaran under the leadership of the Additional Collector and who submitted their report, a copy of which was filed in CWJC No. 11736 of 2015 which also was heard analogous to CWJC No. 10728 of 2015. It is on appreciation of the rival contentions, the scheme of the Government of India as enforced by the State of Bihar under the signature of the Chief Secretary vide Circular dated 19.11.2014 and upon



consideration of the report so submitted on behalf of the District Magistrate reporting the current factual position of the societies operational in the district that this Court vide judgment passed on 12.10.2015 allowed the writ petition of such of the societies whose claim was supported by the enforcement certificates issued by the Enforcement Officer duly verified by the fact finding team and such societies had approached the Court before the cut off date fixed under the policy which was 31.08.2015.

Insofar as the present petitioners are concerned admittedly they have approached the Court before the cut off date fixed i.e. 31.08.2015 and thus are entitled for consideration of their claims. Since the fact finding report submitted by the State authorities under the supervision of the District Magistrate, East Champaran in CWJC No. 11736 of 2015 is a comprehensive report covering all the societies hence a copy thereof has been placed by Mr. Singh for appreciation of the claim advanced by the petitioners in the two writ petitions. I shall be considering the claim of each of the petitioner one by one.

Insofar as the petitioners in CWJC No. 12796 of 2015 are concerned, these societies are operational within Chiraiya Block and are listed at Item No. 10 of the report. The name of the two petitioners appear at Item No. 5 and 6 respectively of the said block which



appears at page no. 11 of the report. Insofar the petitioner no. 1 is concerned the present stock has been reported as 'nil' and thus his claim stands rejected. Insofar as the petitioner no. 2 is concerned, it is reported by the officials that he possesses 2.88 metric tons of 'CMR' which is equivalent to 288 quintals.

Insofar as the petitioners in CWJC No. 13188 of 2015 are concerned, they are societies operational within Block-Dhaka and are listed at serial no. 7 of the report. The name of the petitioner nos. 1, 2 and 3 appear at internal page 10 of the report. Insofar as petitioner nos. 1 and 2 are concerned, the stock has been reported as 'nil' and thus their claims are rejected. Insofar as the petitioner no. 3 is concerned it is reported that the petitioner no. 3 possesses 26.32 metric tons of 'CMR' which is equivalent to 263.2 quintals. The name of the petitioner no. 4 appears at internal page no. 9 of the report and it is reported that he possesses 50 metric tones which is equivalent to 500 quintals of 'CMR'.

In the circumstances so discussed hereinabove, this Court on the principle so laid down in CWJC No. 10728 of 2015 and analogous cases and in consideration of the report of the fact finding enquiry team so submitted before this Court as discussed hereinabove, would reject the claim of the petitioner no. 1 in CWJC No.12796 of 2015 and petitioner nos. 1 and 2 in CWJC No. 13188 of 2015.

Insofar as the claim of petitioner no. 2 in CWJC No. 12796 of 2015 and petitioner nos. 3 and 4 in CWJC No. 13188 of 2015 are concerned, they are directed to supply the 'CMR' amounting to 288 quintal, 263.2 quintal and 500 quintal respectively as mentioned in the report within three weeks from today and which would be accepted by the Corporation and the Union of India and the admissible price payable for the same should be paid to the petitioners.

The two writ petitions are allowed to the aforementioned extent.

(Jyoti Saran, J)

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