IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14187 of 2015

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The Basauli Primary Agriculture Credit Cooperative Society Ltd., Kurhni through its Chairman namely Pitambar Ray, Son of Late Kuldip Ray, R/o Village + P.O. - Basauli, P.S. - Kurhni, District - Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Co-operative Department, Government of Bihar, Patna.
2. The Principal Secretary, Co-operative Department, Government of Bihar, Patna.
3. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
4. The Managing Director, Bihar State Food and Civil Supply Corporation, Sone Bhawan, Patna.
5. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
6. The District Magistrate, Muzaffarpur.
7. The District Supply Officer, Muzaffarpur.
8. The District Co-operative Officer, Muzaffarpur.
9. The District Manager, State Food Corporation, Muzaffarpur.
10. The Block Development Officer, Sahebganj.
11. The Block Co-operative Officer, Sahebganj.
12. The Union of India through the Ministry of Consumer Affairs, Department of Food & Public Distribution, New Delhi.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 14610 of 2015

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The Halimpur Primary Agriculture Credit Cooperative Society Ltd., through its Chairman namely Raghaw Patel, Son of Late Kapildeo Ray, R/o Village - Isha Chapra, P.S. Sahebganj, District – Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Cooperative Department, Government of Bihar, Patna.
2. The Principal Secretary, Cooperative Department, Government of Bihar, Patna.
3. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
4. The Managing Director, Bihar State Food and Civil Supply Corporation, Sone Bhawan, Patna.
5. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
6. The District Magistrate, Muzaffarpur.
7. The District Supply Officer, Muzaffarpur.
8. The District Cooperative Officer, Muzaffarpur.
9. The District Manager, State Food Corporation, Muzaffarpur.
10. The Block Development Officer, Sahebganj.
11. The Block Cooperative Officer, Sahebganj.

.... Respondent/s

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Appearance :
(In CWJC No. 14187 of 2015)

For the Petitioner/s	:	Mr. Krishna Kant Singh
For the Respondent-State	:	Mr. Manish Kumar, AC to GP-28
For the Union of India	:	Mr. S.D. Sanjay, Addl. SG Mr. Anshay Bahadur Mathur
For the Respondent-SFC	:	Mr. Shailendraa Kumar Singh

(In CWJC No. 14610 of 2015)

For the Petitioner/s	:	Mr. Krishna Kant Singh
For the Respondent-State	:	Mr. Niranjan Kumar, AC to GP-27
For the Union of India	:	Mr. S.D. Sanjay, Addl. SG Mr. Anshay Bahadur Mathur
For the Respondent-SFC	:	Mr. Shailendraa Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 16-12-2015

Heard Mr. Krishna Kant Singh, learned counsel appearing for the petitioners in the two writ petitions, learned counsel for the State in the respective writ petitions, learned counsel for the Union of India and Mr. Shailendra Kumar Singh, learned counsel appearing for the respondent-Corporation.

Since the issues raised and the reliefs claimed in both the writ petitions are the same, hence the two writ petitions have been heard together with a view to their final disposal at this stage itself with the consent of the parties.

The petitioners are cooperative societies registered under the Bihar Cooperative Societies Act, 1935 (hereinafter referred to as 'the Act') and are aggrieved by the action of the respondent Corporation in not accepting the balance stock of paddy purchased during the Kharif Marketing Season 2014-15. The petitioners pray for the relief under the policy of the Government of India as enforced by the State of Bihar, whereby and whereunder the Bihar State Food and Civil Supply Corporation was appointed as the nodal agency to deposit the delivery of paddy by the cooperative societies as per the enforcement certificate issued by the Enforcement Officer appointed by the District Magistrate of the concerned district. The policy of the Government of India was circulated in the State under the signature of the Chief Secretary vide circular dated 19.11.2014 and cast obligation upon the cooperative societies to supply their paddy as until 15.4.2015 and whereafter the paddy was to be converted into custom milled rice (hereinafter referred to as 'the CMR') form and was to be delivered latest by 31.8.2015.

As dispute arose due to objections raised by the Corporation in accepting the delivery that the matter reached this Court and the present writ petitions are in continuation of the said chain. It is considering the dispute as well as the fact that the Union of India was the policy maker that they were added as party and have been heard. This Court in consideration of the issues raised, the stipulation of the policy of the Government of India as enforced by the State of Bihar and upon consideration of the argument advanced by the cooperative societies, the State, the Union of India and the Corporation adjudicated the rights of the societies on twin principles i.e.

(a) The balance stock claimed by the society concerned should have supported by the enforcement certificate issued by the Enforcement Officer appointed by the District Magistrate; and

(b) The society concerned should have approached this Court before the cut-off date fixed i.e. 31.8.2015.

It is on the twin principles mentioned above that the claim of the societies was tested and such of the societies who satisfied the conditions were found entitled to the relief.

These are the principles laid down by this Court in matter arising from CWJC No.10728 of 2015 (Auraiya Primary Agriculture Credit Cooperative Society Ltd. vs. The State of Bihar) and CWJC No.11746 of 2015 (Ameya Primary Agricultural Cooperative Societies vs. The State of Bihar) and analogous cases.

As I have mentioned above, these two writ petitions are also in the chain of the cases filed on the issue and it is in consideration of this aspect that the Union of India has also been added as party respondent in CWJC No.14187 of 2015 as it is the funding agency.

Since the principles on which the claim is to be tested is already settled by this Court in the case of Auraiya PACS (supra) hence it is to be seen whether the claim set up by the petitioners herein is worthy of acceptance.

The two societies have approached this Court before the cut-off date and thus they have crossed the first hurdle. It is now to be seen whether their balance stock is supported by the enforcement certificates.

Re: **CWJC No.14610 of 2015**:

In this case the petitioner claims purchase of 3666 quintals of paddy which claim is supported by the enforcement certificate as well as the affidavits filed by the State. It is the grievance of the petitioner that of the 3666 quintals of paddy purchased, the Corporation has accepted only 144 quintals but the balance 3522 quintals has remained in the stock of the society which at present is lying in the Paigambapur Rice Mill.

A fact finding report under the supervision of the District Magistrate finds enclosed at Annexure-J to the counter affidavit of the Corporation filed in CWJC No.14187 of 2015 and the name of the petitioner appears at running page 78 of the said writ petition in which it is stated that the petitioner purchased 3522 quintals of paddy of which 1620 of paddy lies in the stock but the stock is not supported by the enforcement certificate and on this account even after accepting 144 quintals that the balance stock has not been accepted.

Mr. Shailendra Kumar Singh, learned counsel appearing for the Corporation has justified the non-acceptance of the paddy on this ground and in view of the report of the District Magistrate placed at Annexure-J.

Mr. Krishna Kant Singh, learned counsel appearing for the petitioners adverting to the pleadings in CWJC No.14610 of 2015 has submitted that objecting to the report submitted by the District Magistrate dated 6.6.2015 placed at Annexure-J to the counter affidavit filed in CWJC no.14187 of 2015 that the petitioner represented before the District Magistrate vide Annexure-11 to the supplementary affidavit and the matter was enquired into by the Sub-Divisional Officer (West), Muzaffarpur who submitted his report on 29.6.2015 present at Annexure-12 which completely vindicates the stand of the petitioner. With reference to the report of the Sub-Divisional Officer present at Annexure-12 it is submitted by Mr. Krishna Kant Singh that the entire purchase of 3666 quintals of paddy finds support and it is also upheld that 144 quintals of paddy was supplied to the Corporation. It is submitted that the Sub-Divisional Officer has mentioned that of the balance stock, 1902 quintals of paddy has been deposited by the society in the rice mill on 17.4.2015 and the remaining 1620 quintals referred to in Annexure-J has also been deposited with the rice mill on 20.6.2015 which is much prior to the cut-off date fixed in the policy which is 31.8.2015. Mr. Krishna Kant Singh has referred to the counter affidavit filed on behalf of the respondent District Magistrate in CWJC No.14610 of 2015 and with particular reference to the statement made in paragraph 8 of the counter affidavit it is stated that the entire stock of paddy purchase claimed by the petitioner stands upheld. He, however, fairly admits that the purchase and the delivery is being objected on the anvil that there is delay on the part of the petitioner in making payment of the price.

I have heard learned counsel for the parties and have perused the records. From the stand taken by the Corporation it is manifest that the entire objection to the delivery of paddy is based on the earlier report of the District Magistrate dated 6.6.2015 placed at Annexure-J. Considering that the report was objected to by the petitioner who filed his representation placed at Annexure-11 to the writ petition and the matter having been enquired into the balance stock of 3522 quintals of paddy stands upheld in the report of the Sub-Divisional Officer dated 29.6.2015 placed at Annexure-12 to the supplementary affidavit, which position is affirmed by the

District Magistrate at paragraph 8 of the counter affidavit, there cannot be any impediment to the relief claimed by the petitioner.

In the circumstances the petitioner is directed to forthwith make supply of proportionate amount of 'CMR' obtained from the milling of the balance 3522 quintals of paddy to the Corporation within a fortnight from today.

The Corporation, the State and the Union of India would accept the delivery and make payment for the 'CMR' so supplied by the petitioner as found admissible.

Re: **<u>CWJC No.14187 of 2015</u>**:

In this case the petitioner claims purchase of 3600 quintals of paddy and to support the purchase Mr. Krishna Kant Singh refers to the enforcement certificate present at Annexure-4 to the supplementary affidavit which is dated 9.4.2015 and confirms that as until that date the petitioner had purchased 3600 quintals of which 2724 quintals was delivered on 9.4.2015.

Mr. Krishna Kant Singh again referring to the payment vouchers present at Annexure-5 has submitted that of the 3600 quintals of paddy purchased, the Corporation has accepted 417.20 quintals on 20.3.2015 and 458.40 quintals on 21.4.2015 which in total comes to 875.60 quintals. It is submitted that upon reducing this quantity from the total purchase would leave a balance of

2724.40 quintals which stands certified in the enforcement certificate dated 9.4.2015 placed at Annexure-4 which is the subject-matter of dispute.

Mr. Krishna Kant Singh referring to the extract of the purchase register enclosed at Annexure-3 to the supplementary affidavit submits that the entire purchases were made on or before 31.3.2015 and even part payments have been made in respect thereof. He submits that this stock was disputed in the report of the District Magistrate dated 6.6.2015 present at Annexure-J to the counter affidavit of the Corporation wherein the name of the petitioner appears at serial no.17 at running page 79 to confirm a balance stock of 2000 quintals which is also reportedly deposited with the miller.

An objection is raised by Mr. Shailendra Kumar Singh, inter alia, on grounds that since the enforcement certificate is dated 9.4.2015 hence the petitioner would not be entitled to the relief as the scheme was restricted to the purchase made until 31.3.2015. Another issue of objection is that the payment had not been made by the society.

I have heard learned counsel for the parties and I have perused the records.

In so far as the objection raised by Mr. Singh, learned counsel appearing for the Corporation on the issue of enforcement certificate and belated payment is concerned, both are only taken to be rejected. If the purchase of paddy in question as reflected from the payment register enclosed at Annexure-3 is not doubted on its veracity, a mere issuance of enforcement certificate at a subsequent date with nothing reflecting that the purchase was made after 31.3.2015, cannot be a ground for any objection. The scheme required the purchase to be made up to 31.3.2015 which stands confirmed from the purchase register and a belated issuance of enforcement certificate by the Enforcement Officer cannot act prejudice to the rights of the petitioner.

In so far as the issue of payment is concerned again the same is meritless for the reason that each society is dependant on the Bank for its funds and it is only upon release of funds by the Bank that payments are made. In my opinion until such time that any fraudulent act is discovered in respect of any society these technicalities cannot be a ground to deprive them of the benefit of the scheme. A beneficial scheme has to be given wider interpretation. Such restrictive approach by the Corporation is only an impediment to the intent of the scheme.

Adverting to the merits of the case although the petitioner has claimed balance stock of 2724 quintals of paddy but considering that the fact finding report has found only 2000 quintals in the stock of the petitioner which has also been reportedly delivered in the rice mill the petitioner cannot claim any further relief.

In the circumstances this Court modifying the claim of the petitioner to 2000 quintals of paddy would direct the petitioner to deliver the proportionate ‘CMR’ obtained therefrom to the Corporation within a fortnight from today. The Corporation, the State, and the Union of India are directed to accept the delivery of ‘CMR’ and make payment of the price, as found admissible.

The two writ petitions are accordingly allowed.

(Jyoti Saran, J)

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