

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10728 of 2015

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Auraiya Primary Agriculture Credit Co-operative Society Ltd. through its Chairman Rajdev Sah, S/o Late Bihari Sah, resident of Village- Yamunapur, P.O.- Auraiya, P.S.- Adapur, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Food & Consumer Protection, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Co-operative, Govt. of Bihar, Patna.
4. The Managing Director, Bihar State Food & Civil Supply Corporation, Sone Bhawan, Patna.
5. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
6. The District Magistrate, East Champaran, Motihari.
7. The District Supply Officer, East Champaran, Motihari.
8. The District Co-operative Officer, East Champaran, Motihari.
9. The District Manager, State Food Corporation, East Champaran, Motihari.
10. The Executive Officer, Nagar Parishad, Raxaul -cum- Mentors, Adapur Block, East Champaran.
11. The Block Development Officer, Adapur, East Champaran, Motihari.
12. The Block Co-operative/Extension Officer, Adapur, East Champaran.
13. The Union of India though the Secretary Ministry of Consumer Affairs, Food and Civil Supplies.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 10796 of 2015

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Panchpokharia Primary Agriculture Credit Cooperative Society Ltd. through its Chairman, Satyendra Kumar, S/o Late Kapildeo Prasad, resident of village- Panchpokharia, P.O.- Tikulia, P.S.- Mahuawa, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Food & Consumer Protection, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Co-operative, Govt. of Bihar, Patna.
4. The Managing Director, Bihar State Food & Civil Supply Corporation, Sone Bhawan, Patna.
5. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
6. The District Magistrate, East Champaran, Motihari.
7. The District Supply Officer, East Champaran, Motihari.
8. The District Co-operative Officer, East Champaran, Motihari.
9. The District Manager, State Food Corporation, East Champaran, Motihari.
10. The Executive Officer, Nagar Parishad, Raxaul -cum- Mentors, Adapur Block, East Champaran.
11. The Block Development Officer, Adapur, East Champaran, Motihari.
12. The Block Co-operative/Extension Officer, Adapur, East Champaran.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 12335 of 2015

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Noniyadih Primary Agriculture Credit Society having registered office at Mahadewa, P.O.- Noniyadih, P.S.- Raxaul through its Chairman Raju Kumar Singh S/o Late Bhanu Pratap Singh, village- Mahadewa, P.O.- Noniyadih, P.S.- Raxaul, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies Corporation, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Civil Supplies Corporation, Government of Bihar, Patna.
3. The Bihar State Food and Civil Supplies Corporation through its Managing Director, Patna.
4. The Managing Director, Bihar State Food and Civil Supplies Corporation, Patna.
5. The District Magistrate, East Champaran at Motihari.
6. The District Supply Officer, East Champaran at Motihari.
7. The Deputy Collector Land Reforms, East Champaran at Motihari.
8. The District Manager, Bihar State Food and Civil Supplies Corporation Purchase Centre, Raxaul, District- East Champaran at Motihari.
9. The Circle Officer, Raxaul, East Champaran at Motihari.
10. The Block Development Officer, Raxaul, East Champaran at Motihari.
11. M/S Jagdamba Bhawani Enterprises Pvt. Ltd. Shyampur Bazar, Adapur, Block Raxaul, District- East Champaran.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 12201 of 2015

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Kedar Rai, son of Shri Raghunath Rai, Resident of village- Sareya Chainpatti, P.S.- Paharpur, District- East Champaran, Presently Chairman of Sareya Pratap Tola PACS, Police Station- Paharpur, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, East Champaran at Motihari.
3. The Secretary, Bihar State Food Corporation, Patna, Bihar.
4. The District Cooperative Officer, District East Champaran at Motihari.
5. The District Manager, Bihar State Food Corporation, East Champaran at Motihari.
6. The B.C.E.O., Block Paharpur, District- East Champaran at Motihari.
7. M/s Shri Krishna Rice Mill, Village Bawaria, Police Station- Paharpur, District- East Champaran.
8. The L.R.D.C., Areraj Sub Division, District- East Champaran.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 12356 of 2015

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Haraiya Pantoka Primary Agriculture Credit Society having registration office, at

Haraiya P.O- Singhpur Haraiya, P.S- Raxaul through its Chairman Jitendra Kumar, S/o Sri Gorakh Thakur, Village- Haraiya, P.O- Singhpur Haraiya, P.S.- Raxaul, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies Corporation, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Civil Supplies Corporation, Government of Bihar, Patna.
3. The Bihar State Food and Civil Supplies Corporation through its Managing Director, Patna.
4. The Managing Director, Bihar State Food and Civil Supplies Corporation, Patna.
5. The District Magistrate, East Champaran at Motihari.
6. The District Supply Officer, East Champaran at Motihari.
7. The Deputy Collector Land Reform, East Champaran at Motihari.
8. The District Manager, Bihar State Food and Civil Supplies Corporation Purchase Centre, Raxaul, District-East Champaran at Motihari.
9. The Circle Officer, Raxaul, East Champaran at Motihari.
10. The Block Development Officer, Raxaul East Champaran at Motihari.
11. M/S Annapurna Rice Mill, Raxaul through his proprietor Sri Ramvinod Sinha, East Champaran.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 11031 of 2015

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1. Shyampur/ Belwa Primary Agriculture Credit Cooperative Society Ltd. through its Chairman Lalbund Yadav, S/o Late Suraj Yadav, resident of Village - Kachurbari, P.O. - Adapur, P.S. - Harpur, District - East Champaran.
2. Bherihari/Bishunpurwa Primary Agriculture Credit Co-operative Society Ltd. through its Chairman Shivji Sah, S/o Late Kamal Sah resident of Village - Bairia, P.O. - Sirisia, P.S. - Adapur, District - East Champaran.
3. Majharia/ Barwa Primary Agriculture Credit Co-operative Society Ltd., through its Chairman, Md. Saidullah, S/o Late Abdul Hakim Ansari, resident of Village - Majharia, P.S. - Adapur, District - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Food & Consumer Protection, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Co-operative, Govt. of Bihar, Patna.
4. The Managing Director, Bihar State Food & Civil Supply Corporation, Sone Bhawan, Patna.
5. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
6. The District Magistrate, East Champaran, Motihari.
7. The District Supply Officer, East Champaran, Motihari.
8. The District Co-operative Officer, East Champaran, Motihari.
9. The District Manager, State Food Corporation, East Champaran, Motihari.
10. The Executive Officer, Nagar Parishad, Raxaul -cum- Mentors, Adapur Block, East Champaran.
11. The Block Development Officer, Adapur, East Champaran, Motihari.
12. The Block Co-operative / Extension Officer, Adapur, East Champaran.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 11736 of 2015

=====

Ranjeet Kumar Singh, Son of Sri Muktinath Singh, Resident of Village - Mangalpur Post- Patni, P.S. - Ramgarhwa, District - East Champaran, Presently the Chairman, Primary Agricultural Co-operative Society, Uchchi Bhalia under Panchayat- Patni, Block- Ramgarhwa, Sub Division- Raxaul, District - East Champaran (Motihari).

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Government of Bihar, Patna.
2. The Secretary Department of Food and Civil Supply, Government of Bihar, Patna.
3. The Managing Director, Bihar State Food Co-operative, Patna.
4. The Managing Director, Bihar State Corporation Bank Limited, Patna.
5. The Commissioner, Tirhut Division, Muzaffarpur.
6. The District Magistrate, East Champaran, Motihari.
7. The Deputy Collector Land Reforms, East Champaran, Motihari.
8. The District Supply Officer, East Champaran, Motihari.
9. The District Development Commissioner, East Champaran, Motihari.
10. The District Co-operative Officer, East Champaran, Motihari.
11. The Sub Divisional Officer, Raxaul, District East Champaran, Motihari.
12. The Block Development Officer, Ramgarhwa, Sub – Division- Ruxaul, District - East Champaran, Motihari.
13. The Block Supply Officer, Block- Ramgarhwa ,Sub Division- Raxaul, District - East Champaran, Motihari.
14. The Union of India through the Secretary, Ministry of Consumer Affairs, Food and Public Distribution, Krishi Bhawan, New Delhi

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 11818 of 2015

=====

Rajneesh Kumar Singh, Son of late Chandra Kishore Singh, resident of Village Raghunathpur, Post Raghunathpur, P.S.- Ramgarhwa, District -East Champaran. Presently the Chairman, the Primary Agriculture Credit Society, Raghunathpur, under Block- Ramgardhwa, Sub-Division Raxaul , Disrict- East champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Civil Supply, Govt. of Bihar, Patna.
3. The Managing Director, Bihar State Food Co-operative Patna.
4. The Managing Director, Bihar State Corporative Bank Limited, Patna.
5. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
6. The District Magistrate, East Champaran Motihari.
7. The Deputy Collector, Land Reforms, East Champaran, Motihari.
8. The District Supply Officer, East Champaran, Motihari

9. The District Development Commissioner, East Champaran, Motihari.
10. The District Co-operative Officer, East Champaran, Motihari.
11. The Sub-Divisional Officer, Raxaul, District - East Champaran, Motihari.
12. The Block Development Officer, Ramgarhwa, Sub Division- Ruxaul, District East Champaran, Motihari.
13. The Block Supply Officer, Block- Ramgarhwa, Sub Division- Raxaul, District East Champaran, Motihari.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 11563 of 2015

=====

Mukesh Kumar Ojha, Son of Dhrub Nath Ojha, R/o village- Sheonagar Satpipara, Post and P.S.- Ramgarhwa, District- East Champaran, at present the Chairman of Sheonagar Inarva, under Block- Ramgarhwa, District- East Champaran at Motihari.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Government of Bihar, Patna.
2. The Secretary Department of Food and Civil Supply, Government of Bihar, Patna.
3. The Managing Director, Bihar State Food Co-operative Patna.
4. The Managing Director, Bihar State Corporation Bank Limited, Patna.
5. The Commissioner, Tirhut Division, Muzaffarpur.
6. The District Magistrate, East Champaran, Motihari.
7. The Deputy Collector, Land Reforms, East Champaran, Motihari.
8. The District Supply Officer, East Champaran, Motihari.
9. The District Development Commissioner, East Champaran, Motihari.
10. The District Co-operative Officer, East Champaran, Motihari.
11. The Sub Divisional Officer, Raxaul, District- East Champaran, Motihari.
12. The Block Development Officer, Ramgarhwa, Sub Division- Raxaul, District- East Champaran, Motihari.
13. The Block Supply Officer, Block- Ramgarhwa, Sub Division Raxaul, District- East Champaran, Motihari.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 12090 of 2015

=====

Ajgarwa Primary Agriculture Credit Society, Banjariya, East Champaran, through its Chairman Subhash Kumar, S/o Sri Anirudh Prasad, Resident of Village + P.O.- Kheri, P.S.- Banjariya, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate, East Champaran at Motihari.
3. The Bihar State Food and Civil Supply Corporation through its Managing Director, Bihar, Patna.
4. The District Manager, Bihar State Food and Civil Supply Corporation, East Champaran at Motihari.
5. The District Co-operative Officer, East Champaran at Motihari.
6. The District Supply Officer, East Champaran at Motihari.

7. The Sub Divisional Officer, Sadar, Motihari.
8. The Block Co-operative Officer, Banjariya, East Champaran at Motihari.
9. The Circle Officer, Banjariya, East Champaran at Motihari.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 12123 of 2015

=====

Ajay Bahadur Pandey, son of Shri Janardan Pandey, Resident of village - Pandey Tola, Tejpurwa, Police Station - Malahi, District - East Champaran. Presently Chairman of Tejpurwa PACS, Police Station - Malahi, District - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, East Champaran at Motihari.
3. The Secretary, Bihar State Food Corporation, Patna, Bihar.
4. The District Cooperative Officer, District- East Champaran at Motihari.
5. The District Manager, Bihar State Food Corporation, East Champaran at Motihari.
6. The B.C.E.O., Block Paharpur, District - East Champaran at Motihari.
7. M/s Shri Krishna Rice Mill, Village- Bawariya, Police Station - Paharpur, District - East Champaran.
8. The L.R.D.C. , Areraj, Sub Division, District - East Champaran.

.... Respondent/s

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Appearance :

(In CWJC No. 10728 of 2015)

For the Petitioner/s	:	Mr. Sunil Kumar Verma
For the Respondent-State	:	Mr. Ajeet Kumar, SC-28
For the Union of India	:	Mr. S.D. Sanjay, Addl. SG with Mr. A. B. Mathur, CGC
For the Respondent-SFC	:	Mr. Anjani Kumar, Sr. Advocate with Mr. Shailendra Kumar Singh

(In CWJC No. 10796 of 2015)

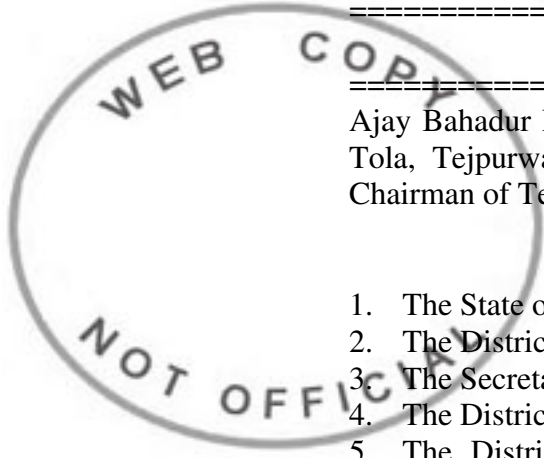
For the Petitioner/s	:	Mr. Sunil Kumar Verma
For the Respondent-State	:	Mr. Kinkar Kumar, SC-27
For the Union of India	:	Mr. S.D. Sanjay, Addl. SG with Mr. A. B. Mathur, CGC
For the Respondent-SFC	:	Mr. Anjani Kumar, Sr. Advocate with Mr. Shailendra Kumar Singh

(In CWJC No. 12335 of 2015)

For the Petitioner/s	:	Mr. Bindhyachal Rai
For the Respondent-State	:	Mr. Ajeet Kumar, SC-28
For the Union of India	:	Mr. S.D. Sanjay, Addl. SG with Mr. A. B. Mathur, CGC
For the Respondent-SFC	:	Mr. Anjani Kumar, Sr. Advocate with Mr. Shailendra Kumar Singh

(In CWJC No. 12201 of 2015)

For the Petitioner/s	:	Mr. Sanjay Kumar No.-7
For the Respondent-State	:	Mr. R.R.K. Pandey, SC-29
For the Union of India	:	Mr. S.D. Sanjay, Addl. SG with Mr. A. B. Mathur, CGC
For the Respondent-SFC	:	Mr. Anjani Kumar, Sr. Advocate with



(In CWJC No. 12356 of 2015)

For the Petitioner/s : Mr. Shailendra Kumar Singh
 For the Respondent-State : Mr. Bindhyachal Rai
 For the Union of India : Mr. R.R.K. Pandey, SC-29
 : Mr. S.D. Sanjay, Addl. SG with
 : Mr. A. B. Mathur, CGC
 For the Respondent-SFC : Mr. Anjani Kumar, Sr. Advocate with
 : Mr. Shailendra Kumar Singh

(In CWJC No. 11031 of 2015)

For the Petitioner/s : Mr. Sunil Kumar Verma
 For the Respondent-State : Mr. S.A. Alam, SC-3
 For the Union of India : Mr. S.D. Sanjay, Addl. SG with
 : Mr. A. B. Mathur, CGC
 For the Respondent-SFC : Mr. Anjani Kumar, Sr. Advocate with
 : Mr. Shailendra Kumar Singh

(In CWJC No. 11736 of 2015)

For the Petitioner/s : Mr. Rathore Vasundhara
 For the Respondent-State : Mr. Anil Kumar Upadhyay, SC-27
 For the Union of India : Mr. S.D. Sanjay, Addl. SG with
 : Mr. A. B. Mathur, CGC
 For the Respondent-SFC : Mr. Anjani Kumar, Sr. Advocate with
 : Mr. Shailendra Kumar Singh

(In CWJC No. 11818 of 2015)

For the Petitioner/s : Mr. Rathore Vasundhara
 For the Respondent-State : Mr. Raj Nandan Prasad, SC-9
 For the Union of India : Mr. S.D. Sanjay, Addl. SG with
 : Mr. A. B. Mathur, CGC
 For the Respondent-SFC : Mr. Anjani Kumar, Sr. Advocate with
 : Mr. Shailendra Kumar Singh

(In CWJC No. 11563 of 2015)

For the Petitioner/s : Mr. Rathore Vasundhara
 For the Respondent-State : Mr. R.K. Priyadarshi, SC-32
 For the Union of India : Mr. S.D. Sanjay, Addl. SG with
 : Mr. A. B. Mathur, CGC
 For the Respondent-SFC : Mr. Anjani Kumar, Sr. Advocate with
 : Mr. Shailendra Kumar Singh

(In CWJC No. 12090 of 2015)

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari
 For the Respondent-State : Mr. Mr. Raj Nandan Prasad, SC-9
 For the Union of India : Mr. S.D. Sanjay, Addl. SG with
 : Mr. A. B. Mathur, CGC
 For the Respondent-SFC : Mr. Anjani Kumar, Sr. Advocate with
 : Mr. Shailendra Kumar Singh

(In CWJC No. 12123 of 2015)

For the Petitioner/s : Mr. Sanjay Kumar No.-7
 For the Respondent-State : Mr. Avinash Kumar, SC-30
 For the Union of India : Mr. S.D. Sanjay, Addl. SG with
 : Mr. A. B. Mathur, CGC
 For the Respondent-SFC : Mr. Anjani Kumar, Sr. Advocate with
 : Mr. Shailendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

C.A.V. JUDGMENT

Date: 12-10-2015



The petitioners in this batch of cases are Primary Agriculture Credit Cooperative Societies ('PACS' for the sake of brevity) registered under the Bihar Cooperative Societies Act, 1935 (hereinafter referred to as 'the Act') and the Rules framed thereunder. Each of the writ petitioners are aggrieved by the action of the respondent-authorities of the Bihar State Food and Civil Supply Corporation (hereinafter referred to as 'State Food Corporation') in not taking delivery of their respective paddy/custom milled rice ('CMR' for the sake of brevity).

It is the grievance of these petitioner-societies who have invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India that although the paddy/CMR in their possession are valid purchase having been made before the cut-off date fixed by the Central Government which is 31.3.2015 but despite the attempts made by the petitioners to effect the supply it is due to the laches on the part of the authorities of the State Food Corporation with the authorities of the Cooperative Department looking the other way that the petitioners are forced to seek their relief before this Court.

Since all these petitioners are cooperative societies situated within the district of East Champaran and have more or less prayed for identical reliefs seeking a direction to the authorities of the State Food Corporation to take delivery of the paddy/CMR in

their possession hence these writ petitions have been heard analogous and with the consent of the parties are being disposed of by a common judgment at this stage itself.

The facts are in a very narrow compass. The Government of India in its Ministry of Consumer Affairs, Department of Food and Public Distribution announced a policy decision for the Kharif Marketing Season 2014-15 whereunder the paddy and 'CMR' was to be supplied by the farmers through their respective cooperative societies to the State Food Corporation who was appointed as the nodal agency. The supply so effected was to be utilized towards various schemes of the Government of India who is also the funding agency. The policy as announced by the Government of India has not been placed by either of the parties but the scheme, its object and the manner for its execution stands explained in the letter of the Chief Secretary circulated by Memo no.8785 dated 19.11.2014. As per the scheme, the supply of paddy was to be made by the cooperative societies at the centres earmarked by the State Food Corporation with effect from 25.11.2014 until 15.4.2015 and the supply of 'CMR' was to be made with effect from 25.11.2014 to 30.6.2015 which date has been subsequently extended until 31.8.2015.

According to the petitioners, it is entirely due to the laches on the part of the State authorities to ensure the disposal of



the paddy purchase by the cooperative societies at the hands of the State Food Corporation and the failure on the part of the State Food Corporation to accept the delivery, that they are left with substantial paddy/‘CMR’ in their stock and the Corporation on the plea of lapse of cut-off date is not taking its delivery. According to the petitioners, the stocks in their possession are valid purchase fully supported by the enforcement certificates issued by the Enforcement Officer duly appointed in each of the district by the District Magistrate. It is also the case of the petitioners that they have made payment in respect of the purchase albeit not in its entirety but that would not have any bearing on the issue so long the purchase are supported by the enforcement certificates. These petitioners are thus seeking appropriate direction in the nature of mandamus commanding the State Food Corporation to either accept the paddy on its own form or take the delivery of the ‘CMR’ so produced therefrom.

It is in consideration of the nature of dispute and the fact that the foundation of the contest lies upon the policy so formulated by the Union of India in its Ministry of Consumer Affairs, Department of Food and Public Distribution that they were added as a party to the proceedings and notices were served upon the Additional Solicitor General who has since registered appearance on their behalf and also filed a counter affidavit.



Since the Government of India as well as the State Food Corporation have filed their comprehensive counter affidavit in CWJC No.10728 of 2015 and the fact finding report submitted by the District Magistrate, East Champaran under the orders of this Court has been filed in CWJC No.11736 of 2015 hence I would be referring to the pleadings and the Annexures as occurring in the said writ petitions unless clarified with specific reference to the other writ petitions.

I have heard learned counsel for the petitioners in this batch of writ petitions, Mr. S.D. Sanjay, learned Additional Solicitor General assisted by Mr. A.B. Mathur, learned Central Government Counsel for the Union of India in this batch of writ petitions, the respective State Counsel led by Mr. Anil Kumar Upadhyay, learned Standing Counsel No.20 and Mr. Anjani Kumar, learned senior counsel along with Mr. Shailendra Kumar Singh representing the Bihar State Food and Civil Supplies Corporation.

The arguments of learned counsel appearing on behalf of the petitioners in this batch of writ petitions are mainly directed against the State Food Corporation who are charged with arbitrary function. According to learned counsel, although the State Food Corporation being appointed the nodal agency is under a duty to achieve the object of the policy decision of the Government of India but its manner of functioning is to the contrary. According to the



learned counsel, it is primarily due to laches on the part of the authorities of the State Food Corporation in not efficiently discharging their duty that even when the target for procurement of paddy was fixed at 30 lacs metric tons but the Corporation has lagged far behind primarily due to their obstructive approach. It is submitted that the policy decision is a welfare measure for the benefit of the farmers of the State but the concern so shown by the Government of India as implemented by the State Government did not find similar response from the authorities of the State Food Corporation.

Mr. S.D. Sanjay, learned Additional Solicitor General while reiterating the statement made in the counter affidavit filed on behalf of the Ministry submits that sufficient period was granted by the Government of India for disposal of the paddy/‘CMR’ by the cooperative societies at the hands of the State Food Corporation and the cooperative societies had to abide by the schedule. It is submitted that whereas a period of almost five months was provided to the cooperative societies to supply the paddy to the State Food Corporation i.e. until 15.4.2015, the period to supply ‘CMR’ was even larger and though it was earlier fixed on 30.6.2015 but at the request of the State Government it was extended until 31.8.2015. It is submitted that since there is no further request by the State Government for extension of date hence



the closure date stood at 31.8.2015. Proceeding further it is submitted that any further extension of the period would upset the arrangement in the next season besides the deteriorating quality of the grains and also results in various kind of manipulation and mal-practices. It is thus submitted that no paddy can be accepted after 15.4.2015 and it is only such of the 'CMR' which has been delivered within the cut-off date fixed for such purpose i.e. 31.8.2015 would be taken in the central pool but not beyond that.

Mr. Anjani Kumar, learned senior counsel has appeared for the State Food Corporation and has opposed the prayer made by the writ petitioners with full vehemence. According to Mr. Kumar, these petitioners have not approached this Court with clean hands inasmuch as the valid purchase made by the respective societies have already been delivered to the Corporation and accepted by them and the balance so shown in these writ petitions are not supplies made by the farmers rather it is a mechanism designed by the Chairman of these societies to secure undue advantage. With reference to the letter of the Chief Secretary dated 19.11.2014 placed at Annexure-1 he submits that the Divisional Commissioners along with the District Magistrates were issued directives and guidelines for efficient implementation of the scheme which appropriately fixes the responsibilities upon the District Magistrates, the authorities of the Cooperative Department, the



authorities of the State Food Corporation and the Chairman of 'the PACS' and which has to be necessarily performed. It is submitted that the policy is a welfare measure for the benefit of the farmers in disposal of their paddy as well as to avoid the middleman and profit earners. It is contended that the Corporation was appointed as the nodal agency for the procurement of the paddy and 'CMR' from the cooperative societies but only after satisfying itself that the purchases were genuine. It is the contention of learned counsel that a duty is cast upon the respective cooperative societies to make immediate payment to the farmers for the paddy supplied but in most of the cases this aspect is found wanting. It is the contention of Mr. Kumar that it is for securing the interest of the farmers that the guidelines require the payment to be made by direct transfers in the account of the farmers through R.T.G.S./N.E.F.T. or by means of Account Payee Cheque and which is a mandatory duty cast upon the cooperative societies but in most of the cases this duty has not been discharged. Learned counsel has referred to a supplementary counter affidavit filed on behalf of the State Food Corporation to contend that the entire procedure for procurement of paddy/CMR as provided in the guidelines of the Chief Secretary present at Annexure-1 stands discussed in paragraphs 4 to 7 of the affidavit and thus until such time that the society concerned does confirm that the prescribed procedure has been followed it cannot claim any

relief. It is the argument of Mr. Kumar that these procedures have been provided to prevent the misuse of public money as well as to forestall any mischievous attempt by any society to claim benefit through wrongful means.

Mr. Kumar very sanguinely has gone through different clauses of the guidelines issued by the Chief Secretary to canvass that the stocks so projected by these cooperative societies are not valid purchase rather the Chairman of these cooperative societies are trying to secure the advantage by purchasing paddy from the open market and projecting the same as a purchase from the member-farmers and the reason is the extra benefit so available in the scheme. He submits that the report of the District Magistrate itself reflects the suspicious circumstances.

Mr. Kumar while contesting the argument of learned counsel for the writ petitioners on merits has further contested their prayer in the backdrop of the cut-off date and to submit that since the cut-off date has admittedly lapsed on 31.8.2015 and since the State Food Corporation as a nodal agency is making purchase on behalf of the Union of India who has not extended the cut-off date hence should the prayer made by the writ petitioners merit consideration then a corresponding obligation be also cast upon the Union of India to accept the delivery and release the funds for the purchase made by the Corporation because the Corporation is

merely executing the thought process of the Union of India.

Since the entire dispute centred around the fact whether the stocks yet available with the petitioner-societies are valid purchase and are supported with valid documents and although some kind of enquiry had been earlier made which was not free from contest, hence this Court thought it proper to get a physical verification of the stocks claimed by the societies in question done afresh under the supervision of the District Magistrate, East Champaran and which is present in the order passed on 28.8.2015 which runs as follows:

“Let these matters come up under the same heading on 07.09.2015 before which date the District Magistrate, East Champaran would carry out a fresh inspection/physical verification of the entire Primary Agriculture Cooperative Credit Societies (hereinafter referred to as ‘the PACS’) operational within the district of East Champaran including their godowns or the premises where the stocks are maintained, through a team of officials under the leadership of an officer not below the rank of the Additional Collector. The team would furnish its reports on the following issues:

- (a) The procurement target of paddy fixed for the respective society by the Cooperative Department for the Kharif Season 2014-15.
- (b) The total purchase of paddy made by the respective PACS from its members as on 31.3.2015 and the papers to support such purchase.
- (c) The number and date of the enforcement certificate supporting the purchase made by the respective PACS issued by the Circle Officer concerned, if available.
- (d) The quantum of paddy delivered by the respective PACS to the Bihar State Food and Civil Supplies Corporation Ltd.
- (e) The quantum of paddy sent to the rice mill for converting it to custom milled rice for the paddy

- season 2014-15; and
- (f) The stock of paddy/custom milled rice presently available with the respective PACS.

The report so prepared by the team should be countersigned by the Chairman of the society concerned or any member of the Managing Committee of the PACS concerned, duly authorized by the Chairman.

Since the respective Primary Agriculture Credit Cooperative Society in the District of East Champaran are represented through their respective counsels hence it is due notice to the societies concerned, to be available/present with the relevant records supporting their purchase as and when the inspecting team visits their respective office/premises/godowns and no objection regarding absence of notice would be entertained on behalf of any of the society.

List these cases on 7.9.2015 under the same heading and if the desired report is not submitted on or before 4.9.2015 then the District Magistrate, East Champaran should be present in Court on 07.09.2015 at 10.30 A.M with a suitable explanation.

Let a copy of this order be handed over to Mr. Anil Kumar Upadhyaya, learned S.C.20 as well as Mr. Shailendra Kumar Singh learned counsel for the Corporation.”

Pursuant to the order passed, the report has been submitted by the District Magistrate, East Champaran and is filed by way of affidavit in CWJC No.11736 of 2015. It is rather surprising that although the State Government is the implementing agency of the policy so announced by the Government of India but no counter affidavit has been filed on behalf of the State either accepting or contesting the reliefs. In fact except the report so submitted pursuant to the order of this Court there is no other affidavit either on behalf of the District Magistrate or the



Cooperative Department. This is rather peculiar. It is also more surprising that even when a contest is brewing in between the cooperative societies and the Corporation and the reliefs are sought to be denied on the anvil of cut-off date, yet there is no attempt on the part of the State for extension thereof. I find it rather peculiar because the policy being discussed is for the betterment of the farmers and even when the cooperative societies are claiming that it is due to obstructive function by the Corporation that they have not been able to dispose of their stocks and I find representations also present in some of the writ petitions but the grievance have gone unnoticed by the State as well as the Corporation forcing the societies before this Court.

Bet it noted that all the writ petitions have been filed much prior to the cut-off date so it is not that the petitioners have woken from slumber rather what transpires from the records is that having awaited a positive response from the State authorities as well as the Corporation that they finally chose to knock the doors of this Court in absence of any response.

The issues which fall for consideration before this Court is whether the stock in question is supported with the valid documents and is thus a valid purchase and if the answer to this issue is in the affirmative then whether the petitioners can be penalized, and can be deprived of the benefits of the policy merely

on account of lapse of the cut-off date.

As I have already observed that it is in consideration of the rival contentions as to the factual claim on the stock possessed by the societies that this Court directed for a fact finding enquiry under the supervision of the District Magistrate which has been placed on record by way of affidavit in CWJC No.11736 of 2015. It is thus to be seen as to what extent the claim of these petitioners stands supported by the report. The stock position is on the basis of the enforcement certificate issued by the Enforcement Officer appointed by the District Magistrate for implementation of the policy. I would thus not rely upon the figures given by the writ petitioners but would base my decision on the report so submitted by the District Magistrate which also bears the signatures of the Chairman of the society concerned or his representatives. In fact the fact finding report cannot be questioned either by the petitioners or the Corporation for it rests upon authentic supportive documents.

In the backdrop of the discussions above it is to be seen as to what does the report says about the stock position of these cooperative societies. Here I would be referring to the affidavit filed by the District Magistrate in CWJC No.11736 of 2015 on 7.9.2015. Since the said affidavit has not been paginated hence I would be referring to the internal pages for the sake of convenience.

(i) **CWJC No.10728 of 2015:** The name of Auraiya PACS



appears at page no. 19 of the report and reflects that 188.10 metric tons of paddy was purchased by 'the PACS' as until 31.3.2015 and which is supported by the enforcement certificate referred in column no.6. Out of the said stocks 37.68 metric tons was supplied to the State Food Corporation but the present stock position has been mentioned as 'NIL'.

- (ii) **CWJC No.10796 of 2015:** The Pachpokhariya PACS appears at page no.20 of the report and shows that 192.28 metric tons of paddy were validly purchased by the petitioner of which 50 metric tons has been supplied leaving a balance of 142.28 metric tons which is equal to 1422.80 quintals. In the remarks column it is mentioned that price has only been paid in respect of 65 metric tons.
- (iii) **CWJC No.12335 of 2015:** The Noneya Dih PACS appears at page no17 of the report which supports a purchase of 555.65 metric tons of paddy by the society of which 272.10 metric tons has been supplied to the State Food Corporation and 60.85 metric tons has been supplied as 'CMR' and the balance 112.7 metric tons of paddy is available with the society and 73.7 metric tons in 'CMR' is stocked with the Jagdamba Rice Mill.

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- (iv) **CWJC No.12201 of 2015:** Sareya Pratap Tola PACS appears at page 14 of the report and although 407.36 metric tons of paddy is claimed as a valid purchase but there is no discussion on the supporting papers.
- (v) **CWJC No.12356 of 2015:** Pantoka PACS appears at page no.17 of the report and supports a purchase of 184.20 metric tons of paddy of which 71.20 metric tons of paddy supplied and 33 metric tons in 'CMR' was supplied to the Corporation leaving the balance of 80 metric tons of paddy. In the remarks column it is mentioned that 62.9 metric tons of paddy and 114.57 metric tons of 'CMR' is present at Annpurna Rice Mill but the report of the Sub-Divisional Officer present at Annexure-5 to the writ petition confirms that 80 metric tons of paddy was sent to the mill and thus it is these 80 metric tons which stands certified and not beyond that.
- (vi) **CWJC No.11031 of 2015:** Three cooperative societies have joined in this writ petition, namely:
- (a) Shyampur Belwa PACS whose name appears at page no.21 of the report and although 320 metric tons of purchase of paddy has been shown but it is not supported with any supporting papers;
- (b) Bhedihari Vishunpurwa PACS appears at page no.19 of

the report and supports the purchase of 266.43 metric tons of paddy and all of which has been supplied leaving 'NIL' stock;

- (c) Majhariya Barwa PACS appears at page no.20 of the report and though shows purchase of 257.20 metric tons of paddy but there is no paper to support the purchase.
- (vii) **CWJC No. 11736 of 2015:** The Ucchi Bhatiya PACS appears at page 19 of the report and supports a purchase of 472.60 metric tons of paddy of which 195.60 metric tons of paddy has been supplied and 75.02 metric ton in 'CMR' is available at the mill. There is no further stock shown against the petitioner.
- (viii) **CWJC No.11818 of 2015:** The Raghunathpur PACS appears at page 19 of the report and supports a purchase of 618 metric tons of paddy of which 308.60 metric tons of paddy has been supplied and 228.80 metric tons of 'CMR' is available in the mill.
- (ix) **CWJC No.11563 of 2015:** The Shivnagar Inarwa PACS appears at page no.18 of the report and supports a purchase of 504.50 metric tons of paddy of which 104.80 metric tons of paddy has been supplied and 240 metric tons in 'CMR' is available in mill.
- (x) **CWJC No.12090 of 2015:** The Ajarwa PACS appears

at page no.9 of the report does supports a purchase of paddy but neither shows the quantity of purchase nor shows any balance stock.

- (xi) **CWJC No.12123 of 2015:** The Tejpurwa PACS appears at page 14 of the report and although reflects a purchase of 542.50 metric tons of paddy but there is no reference to any supporting papers.

The individual details above is conclusive of the factual stock position of the petitioners and since I have given a primacy to the enforcement certificates issued by the Enforcement Officer as the basis for such calculation and only such of the stocks which are supported by the respective enforcement certificates issued by the Enforcement Officer have been treated to be valid stocks and would require a consideration hence all objections raised by Mr. Anjani Kumar raising suspicion on the stocks on the anvil of not being supported by payment, loses its significance. In fact even though the policy requires the payment to be made immediately but that is not a condition precedent for the delivery. In my opinion where the Cooperative Societies are largely dependant upon their bank for the payments to the farmers, the issue of payment though is relevant but cannot be an obstacle for the benefit under the policy and the Corporation has unnecessarily raised this bogey to contest the relief.



A cursory glance at the policy decision so circulated by the Chief Secretary present at Annexure-1` to CWJC No.10728 of 2015 though mentions in the opening paragraph that the procurement of paddy would be done from 25.11.2014 up to 15.4.2015 and the supply of 'CMR' would be until 30.6.2015 (wrongly mentioned as 30.9.2015) which has subsequently been extended up on 31.8.2015 and Clause 3 thereof also reflects that the target for procurement in the Kharif Marketing Season 2014-15 was fixed at 30 lacs metric tons but clause 3 also clarifies that this target fixed was the minimum to be achieved and the procurement may also exceed its target. Another aspect which reflects from the policy is that the supply of 4 lacs metric tons of 'CMR' was to be made by proportionate milling of paddy resulting in such quantity. It is stated at the Bar that milling of 100 quintals of paddy would give roughly 67 quintals of 'CMR'. Clause-2 at page 16 of the circular further mentions that the entire milling of the paddy is to be made by the Bihar State Food Corporation and that the PACS and *Vyapar Mandal* would give proportionate paddy which would yield 4 lacs metric tons of 'CMR' for milling and the balance paddy is to be supplied for milling to the Corporation. Clause-6 of the circular which deals with the milling issue at page 19 also casts responsibility on the authorities of 'the State Food Corporation' to give information to 'the PACS' as to the quantity of paddy to be



supplied to the mill and the mobile number of the officer deputed at the concerned mill should be made available to the society. Clause-8 of the circular casts a responsibility on 'the State Food Corporation' to prepare a roster of the supply to be made from the societies so that the societies are well aware on the date on which they were to make their delivery so that there is no unnecessary crowd in carrying out the delivery work at the purchase centres. Clause-10 and 11 of the circular casts responsibility on the District Magistrate to ensure that the procurement made by the society is disposed of smoothly and report of per day purchase is to be sent to the Chief Secretary, Development Commissioner and the Principal Secretary, Food and Consumer Protection Department. The District Magistrates concerned are also required to confirm the storage facilities. Clause-13 discusses the responsibility of 'the State Food Corporation' in the matter of procurement as well as the supply of 'CMR'. Similarly duties have also been assigned to the Cooperative Department at Clause-14 of the circular. The circular rightly in its concluding portion mentions that the procurement should be carried out with utmost priority and arrangement should be made in such manner that none of the farmers finds any difficulty in disposing of his crop and he is not forced to make any distress sale. A cursory glance at the circular so issued by the Chief Secretary demonstrably confirms the laudable object of the policy aimed at ensuring a



smooth disposal of the paddy of the farmers as well as the payment of its price. As it was stated at the Bar and not contested by 'the State Food Corporation' that even when the policy only fixes a minimum target to be achieved by the authorities of the State and the Corporation and there is no upper limit, it is due to unwarranted objections of the Corporation that even the minimum target has not been achieved by 'the State Food Corporation'.

A policy decision is a welfare measure and in so far as the present one is concerned it is apparently directed for providing succour to the farmers in disposal of their paddy crops. It is rather peculiar that the benevolent object of the policy is sought to be arrested due to a conceited approach of the respondents. I do agree that once a cut-off date is fixed then the paddy/custom milled rice had to be necessarily disposed of within the said period but then the onus does not entirely lie upon the society rather it is the State in its Food and Consumer Protection Department, the Cooperative Department, the District Magistrate as the supervisory head of the district and the authorities of the Corporation who had to take sufficient steps to ensure that at least such of the paddy crops which stands supported by the enforcement certificate be delivered either in paddy form or in custom milled rice form. In my opinion in view of the responsibility so cast upon the district authorities, the authorities of the Cooperative Department, the District Magistrate

and the Corporation they stand equally responsible for the grievance espoused through these writ petitions.

Although the claim of the societies is now sought to be opposed on grounds that the cut-off date has since lapsed and similar stand has also been unfortunately taken by Mr. Sanjay, learned Additional Solicitor General but in my opinion once the records support that the paddy in question has been purchased within the cut-off date fixed for the Kharif Marketing Season 2014-15 i.e. up to 31.3.2015 and the petitioners have approached this Court within the cut-off date so fixed under the Government of India Policy i.e. 31.8.2015, a mere delay in disposal of the writ petitions primarily attributable to the filing of response by the respondents, cannot act prejudicial to the rights and interests invested in the society concerned. Once the purchase made by the Cooperative Societies concerned is supported by the enforcement certificate issued by the Enforcement Officer of the district duly appointed by the District Magistrates concerned, then the stock so remaining with the society whether in paddy form or in 'CMR' form has to be accepted by the Corporation and correspondingly the Union of India cannot shirk from its responsibility of providing funds for such purchase, provided the society concerned has knocked the door of this Court within a reasonable time and before the lapse of cut-off date. The petitioners herein do satisfy this pre-

requisite for they have approached this Court within a reasonable time and before 31.8.2015 and thus are entitled for consideration of their respective claims.

In the backdrop of the discussions made hereinabove the individual claims of the petitioners are now required to be examined to find out whether they are entitled to the relief claimed.

The fact finding report submitted by the District Magistrate under the orders of this Court confirms that the stock position of the petitioner-society in CWJC No.10728 of 2015, CWJC No.12201 of 2015, CWJC No.11031 of 2015, CWJC No.12090 of 2015 and CWJC No.12123 of 2015 is either 'NIL' stock or their stock is not supported with valid papers. In these circumstances the claim so raised by these societies for disposal of their stock cannot be entertained and thus these writ petitions are accordingly dismissed.

In so far as the remaining writ petitioners are concerned the position is as follows:

- (a) In CWJC No.10796 of 2015 it is reported that 142.28 metric tons of paddy remains with the petitioner;
- (b) In CWJC No.12335 of 2015 it is reported that 112.7 metric tons of paddy is available with the society and 73.7 metric tons of 'CMR' is stocked with Jagdamba Rice Mill.

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- (c) In CWJC No.12356 of 2015 although a large quantity of paddy and 'CMR' are reported to be in the stock of the petitioner but since the petitioner has supporting papers of balance of 80 metric tons of paddy sent to the mill hence 67% thereof which would be the amount of 'CMR' the petitioner would be entitled and not beyond that;
- (d) In CWJC No.11736 of 2015 it is reported that 75.02 metric tons of 'CMR' is available in the mill;
- (e) In CWJC No.11818 of 2015 it is reported that 228.80 metric tons of 'CMR' is available in mill; and
- (f) In CWJC No.11563 of 2015 it is reported that 240 metric tons of 'CMR' is available in the mill.

The figures discussed hereinabove are reportedly supported by the enforcement certificates issued for the respective societies. In the circumstances, neither the Corporation nor the Union of India in its Ministry of Consumer Affairs can deny the benefit of policy to these petitioners and their balance stocks have to be accepted and the price thereof has to be paid to the respective societies.

In result, 'the State Food Corporation' and the Union of India in its Ministry of Consumer Affairs are directed to accept the balance of paddy/'CMR' so available in the stock of the writ

petitioners in CWJC No.10796 of 2015, CWJC No.12335 of 2015, CWJC No.12356 of 2015, CWJC No.11736 of 2015, CWJC No.11818 of 2015 and CWJC No.11563 of 2015, the individual details of which I have already discussed hereinabove and ensure the payment of its price as found admissible.

In so far as the custom milled rice is concerned, let the delivery be effected by these societies to 'the State Food Corporation' forthwith and without any delay and in so far as the balance stock of paddy is concerned the society concerned would get it milled and make the proportionate supply thereof within a fortnight from today.

CWJC No.10796 of 2015, CWJC No.12335 of 2015, CWJC No.12356 of 2015, CWJC No.11736 of 2015, CWJC No.11818 of 2015 and CWJC No.11563 of 2015 are accordingly allowed and CWJC No.10728 of 2015, CWJC No.12201 of 2015, CWJC No.11031 of 2015, CWJC No.12090 of 2015 and CWJC No.12123 of 2015 are dismissed.

Ordered accordingly.

(Jyoti Saran, J)

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