

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1447 of 2015

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Shailesh Kumar Singh, son of Late Gauri Shankar Singh, resident of Village- Bara, P.S. Gawalpara, District- Madhepura at present Chairman, Khokhsi PACS Gwalpara, Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Education Co-operative Department, Government of Bihar, Patna.
2. The Registrar, Co-operative Department, Government of Bihar, Patna.
3. The District Magistrate, Madhepura.
4. The District Cooperative Officer, Madhepura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh
For the Respondent-State : Mr. Shiv Kumar, AC to GA-7
For the respondent-Corporation : Mr. Shailendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 24-08-2015

Heard Mr. Sanjeev Kumar Singh, learned counsel appearing on behalf of the petitioner, Mr. Shiv Kumar, learned Assisting Counsel to Government Advocate No.7 for the State and Mr. Shailendra Kumar Singh, learned counsel appearing for the Bihar State Food and Civil Supplies Corporation (hereinafter referred to as 'the Corporation').

The petitioner is the Chairman of the Khokhsi Primary Agriculture Credit Cooperative Society and is aggrieved by that part of the order dated 2.12.2014 passed by the District Magistrate, Madhepura whereby the petitioner has been restrained from purchase of paddy from its farmer members during the procurement year 2014-15, inter alia, on grounds of

being in default with the Corporation of an amount of Rs.5,65,04,084/-.

Mr. Singh, learned counsel appearing for the petitioner even while admitting that there is a dispute as regarding the outstanding with the respondent-Corporation in relation to the supply of custom milled rice but submits that the matter is yet pending consideration before the appropriate forum on the issue whether at all the petitioner as a proprietor of Bara Rice Mill was in default. It is further the contention of Mr. Singh that in so far as the role of the petitioner as the Chairman of the Khoksi Primary Agriculture Credit Cooperative Society in the district of Madhepura is concerned, there is neither any allegation of default nor the petitioner has been found wanting in discharging the duty as a Chairman of the Society and thus the restraint order is wholly illegal since as per the guidelines all purchases and delivery of paddy is to be made through the society.

Mr. Shiv Kumar, learned Assisting Counsel to Government Advocate no.7 submits that apart from the fact that the order was in relation to the procurement year 2014-15 which has since expired rendering the issue academic, another aspect of the matter is that the petitioner admittedly is in default and

thus could not have been given the responsibility of procurement.

Mr. Shailendra Kumar Singh, learned counsel appearing for the Corporation while admitting to the dispute in between the Corporation and the petitioner as the proprietor of rice mill submits that the petitioner has been unsuccessful in his challenge on the issue of default in supply of custom milled rice.

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

No doubt the procurement season 2014-15 has ended thus rendering the issue academic for the restraint order was only operative until the end of the season 2014-15. But having observed as such, I am at a loss to appreciate the opinion of the District Magistrate in restraining the petitioner from discharging his statutory functions as a Chairman of the Society even when there is neither any surcharge proceeding pending against the petitioner nor he has been found to be defaulter in any proceedings or guilty of misconduct as a Chairman.

In the aforesaid view of the matter, the order of the District Magistrate, Madhepura dated 2.12.2014 in so far as it restrains the petitioner from making procurement, is held illegal and unsustainable in law and is accordingly set aside.

In case the petitioner as the Chairman of the Society has made any procurement during the period 2014-15, he shall be at liberty to deliver the same to the Corporation in accordance with the guidelines of the Government of Bihar found in the circular dated 19.11.2014 and which request of the petitioner shall be considered and disposed of by the Corporation in accordance with law.

The writ petition is allowed with the observation aforementioned.

(Jyoti Saran, J)

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