

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 18852 of 2016

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Goin Primary Agriculture Credit Society (PACS) through its Chairman Krishna Kant Singh, Son of Late Dinanah Singh, Resident of Village- Sihoriyan, P.S.- Chand, District- Kaimur (Bhabua).

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Co-operative Department, Government of Bihar, Patna.
2. The District Magistrate, Kaimur at Bhabua.
3. The District Co-operative Officer, Kaimur at Bhabua.
4. The Co-operative Extension Officer, Kaimur at Bhabua.
5. The District Supply Officer, Kaimur at Bhabua.
6. The Circle Extension Officer, Co-operative Department, Chand, Kaimur (Bhabua).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Mishra, Advocate
For the State : Mr. Amit Prakash, G.A. 13
Mr. Rajeev Shekhar, A.C. to G.A. 13

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 15-12-2016

Heard learned counsel for the parties.

The petitioner, which is a Primary Agricultural Credit Society (PACS) has moved the Court against the order of the District Magistrate, Kaimur (Bhabhua) by which the petitioner has been restrained from further purchase of paddy crops for the Kharif Season 2016-17, by order contained in Memo No. 04 (Mu) dated 30.07.2016.

Learned counsel for the petitioner submitted that they had procured paddy from 125 farmers for being given to the rice



mills for conversion into CMR for supply to the State Food and Civil Supplies Corporation and even though payment for the entire paddy was sent to the Cooperative Bank, only 70 farmers were paid their dues and the remaining 55 remained unpaid. It was submitted that due to such situation, the PACS ultimately returned the paddy of the remaining 55 farmers, which has also been accepted by them. Learned counsel submitted that in such background the PACS cannot be fastened the liability for non payment to the farmers by the Cooperative Bank, and the action of restraining the PACS from future paddy procurement is arbitrary. It was submitted that in any view of the matter, the order having been passed without any opportunity of hearing to the petitioner, cannot be sustained.

Learned counsel for the State submitted that though the order is detailed but he fairly admits that prior to passing of the order no opportunity of hearing has been given to the petitioner.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the writ petition is allowed on the short point of there being violation of the principles of natural justice, inasmuch as, the admitted position is that the petitioner was not heard before passing of the order, which has serious penal consequences.

Accordingly, the order contained in Memo No. 04



(Mu) dated 30.07.2016 passed by the District Magistrate, Kaimur (Bhabhua) is set aside. However, the petitioner shall appear before the District Magistrate, Kaimur (Bhabhua) on 27th December, 2016 at 11:00 A.M. in his official chamber, along with a copy of this order. The District Magistrate, Kaimur (Bhabhua) shall grant full opportunity of hearing to the petitioner and shall also take into consideration all materials which may be produced by him, and then pass a fresh order, in accordance with law.

It goes without saying that as a consequence of quashing of the order impugned, till the time a fresh order is passed, the petitioner is entitled to discharge all its functions without any restriction. The same shall, however, be subject to the fresh order which may be passed.

(Ahsanuddin Amanullah, J.)

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