IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17831 of 2015

==

1. Sheo Nath Singh, son of Late Musafir Singh, Resident of village - Karhan, P.S. - Kesariya, District - East Champaran.
2. Shashikant Singh, son of Late Ram Babu Singh, Resident of village - Karhan, P.S.- Kesariya, District - East Champaran.
3. Sanju Devi, Wife of Mukesh Kumar Sharma, Resident of village - Karhan, P.S. Kesariya, District - East Champaran.
4. Pankaj Kumar Singh, Son of Surendra Singh, Resident of village - Karhan, P.S. Kesariya, District - East Champaran.
5. Nanda Devi, Wife of Pramod Kumar Singh, Resident of village - Karhan, P.S. Kesariya, District - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Department of Cooperation, New Secretariat, Bihar, Patna.
3. The Registrar, Cooperative Societies, New Secretariat, Bihar, Patna.
4. The Joint Secretary to the Government, Department of Co-operation, Bihar, Patna.
5. The District Magistrate, East Champaran at Motihari.
6. The District Co-operative Officer, East Champaran at Motihari.
7. The Zonal Manager, Agriculture Insurance Company of India Limited, Frazer Road, Patna.
8. The Branch Manager, Kesharia Branch, The Motihari Central Coop. Bank Ltd., East Champaran at Motihari.

.... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar
For the Respondent/s	:	Mr. Raju Giri, GP-30
		Mr. Nikhil Kr. Agrawal, AC to GP-30
For the Respondent No.7	:	Mr. Rajen Sahay
For the Respondent No.8	:	Mr. Bindhyachal Rai

==

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 11-04-2016

Heard Mr. Sanjay Kumar, learned counsel appearing for the five petitioners, Mr. Nikhil Kumar Agrawal, learned Assisting Counsel to Government Pleader No.30 for the State, Mr. Bindhyachal Rai, learned counsel appearing for the Bank and Mr.

Rajen Sahay, learned counsel appearing for the Insurance Company.

The present writ petition is a poor and an apathetic reflection of the manner in which the State Government alongside the Bank and the Insurance Company have dealt with the claim of the poor farmers facing crop crisis in the State which remains pending since 2008-09 i.e. for all the seven years and on non-est grounds.

While the counter affidavits filed on behalf of the respondents cries hoarse on the alleged fraud committed by the petitioners but in my opinion it is a mere ploy to cause harassment to the petitioners and the like at the hands of the executive as well as the insurance company with each shouldering their bit of responsibility on the other. Much has been said about the Welfare Schemes framed by the State to cater to the needs of the needy but the ground reality reflects otherwise and a different situation. In the present case the claims raised by the petitioners have been rejected on technicalities and without verification of the fact situation. The act complained of is an antithesis to a welfare State.

I would be fair to admit that in the nature of the dispute raised initially, this Court was not persuaded to enter into the thicket of the controversy which relates to payment of crop insurance for the loss suffered by the farmers during the Rabi Crop season 2008-09 and Kharif Crop season 2009 on assumption that it involved disputed issues of fact but the contest has revealed the startling feature which reflects an alarming situation. The scheme has been placed on record by Mr. Agrawal, learned counsel appearing for the State at Annexure-B to the counter affidavit (running page 43) which confirms that the scheme was extended to Small Farmer having the land holding up to 2 hectares which is equivalent to 5 acres or less as well as to the Marginal Farmers possessing land holding up to 1 hectare or less which is equivalent to 2.5 acres.

The State on gathering information that some of the farmers had tried to take undue advantage by misrepresentation of fact issued a letter dated 27.3.2012 under the signature of the Joint Secretary addressed to the District Magistrates of East Champaran, West Champaran, Siwan and Muzaffarpur asking him to examine the complaint and submit a verification report to the Insurance Company. A Task Force was constituted who submitted their report, a copy of which has been placed on record vide Annexure-E to the counter affidavit of the State. It is on allegation that the five petitioners herein also do fall within the category of farmers who have obtained insurance by misrepresentation of fact and that though they do not come within the purview of either Small Farmers or Marginal Farmers as defined under the scheme yet they have tried to take undue advantage of the scheme that their claim on their very entitlement has been rejected on the anvil of fraud.

A chart has been enclosed by the Bank present at Annexure-R8/G which is stated to have been prepared in consequence of the report of the Task Force present at Annexure-E to the counter affidavit of the State and it is with reference thereto that learned counsel appearing for the respondents have collectively tried to object to the claim so raised by the petitioners. Counsel for the petitioner has made a very brief submission. He submits that the claim of the petitioners have been rejected without verification of the facts as to their entitlement.

Mr. Sanjay Kumar, learned counsel appearing for the petitioners has invited the attention of this Court towards the proposal of the petitioners present at Annexure-R/8 series to submit that each of the petitioners stands successful on eligibility and though the Task Force Report as regarding the petitioner no.4 Pankaj Kumar Singh shows that he possesses land in excess of the stipulation but this confusion is clear from a look at the proposal of the petitioner no.4, Pankaj Kumar Singh which is present at Annexure-R8/D and shows his land holding at 4.67 acres bringing him in the category of Small Farmer. He submits that the report present at Annexure-R8/G to the counter affidavit of the Bank as well as the statement made at paragraph 22 of the counter affidavit filed on behalf of the State in so far as the petitioner no.4, Pankaj Kumar Singh is concerned does not reflect a correct position.

Having heard learned counsel for the parties and considering the admitted position on record I am of the considered opinion that the petitioners herein have been put to most unjust treatment at the hands of the respondents and who have proceeded to reject the claims mechanically and without application of mind.

In my opinion, the chart present at Annexure-R8/G of the counter affidavit of the Bank itself is enough to at least allow the claim in so far as the petitioner nos.1, 2, 3 and 5 are concerned for whereas the petitioner no.1 comes within the category of Marginal Farmer, the petitioner nos.2, 3 and 5 are covered within the definition of a Small Farmer. The State has been fair to confirm this aspect at paragraph 22 of the counter affidavit. The chart present at Annexure-R8/G of the Bank's counter affidavit read with the statement made at paragraph 22 of the counter affidavit filed on behalf of the State does bind the respondent authorities and also confirms the legal position that the claim of petitioner nos.1, 2, 3 and 5 could not have been rejected either on grounds of ineligibility or on grounds of fraud for they are fully covered under the scheme.

In fact the Bank has also been fair enough to place on record the proposals of the petitioners for payment of crop insurance which has been placed at Annexures- R8/A, R8/B, R8/C, R8/D and R8/E respectively.

Now that the entire details are on record of the Court proceedings through affidavits sworn by the competent officials of the State, the Bank and the Insurance Company including the proposal forms, I deem it fit and proper to direct the Insurance Company to consider the claim of petitioner nos.1, 2, 3 and 5 and dispose of the same in accordance with law positively within a period of three months from the date of receipt/production of a copy of this order without resorting to any further technicalities. The Insurance Company can call upon the bank to forward the original proposals of these petitioners and the Bank would be legally obliged to do the same but that should not be an impediment for the Insurance Company to act upon the claims raised by these petitioners.

In so far as the petitioner no.4 is concerned, in view of the dispute so raised in the report present at Annexure-R8/G as well as the statement present at paragraph 22 of the counter affidavit but bearing in mind the proposal present at Annexure-R8/D to the counter affidavit of the Bank he shall be at liberty to establish his claim before the Insurance Company which shall also be considered and disposed of in accordance with law and after opportunity of hearing to the parties within a period of 3 months of receipt/production of a copy of this order

It goes without saying that the admissible claims should be paid to the petitioners within the same period and in case any of the claim is not found admissible for reasons other than the reason attributed herein, be disposed of by a speaking order.

The writ petition is allowed accordingly.

(Jyoti Saran, J)

SKPathak/-

NAFR	
CAV DATE	
Uploading Date	20-04-2016
Transmission Date	