

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12579 of 2015

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Kurasan Primary Agricultural Cooperative Society Limited at the village Kurasan
P.S.- Bhabhua, District- Kaimur through its Chairman

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Patna
2. The Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan, Bichand Patel Patn, Patna through its Managing Director,
3. The Registrar, Cooperative Societies, Bihar, Patna
4. The District Officer, Kaimur (Bhabhua)
5. The District Cooperative Officer, Kaimur (Bhabhua)
6. The District Officer, Bihar State Food and Civil Supplies Corporation, Kaimur (Bhabhua)
7. Block Cooperative Extension Officer, Bhabhua, District- Kaimur
8. The Sasaram-Bhabhua Central Cooperative Bank Limited, at Sasaram, District- Rohtas through its Managing Director

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 13242 of 2015

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1. Sirbit Primary Agriculture Credit Society Ltd., Chainpur, Bhabhua through its Chairman Anil Kumar Patel S/o Late Birendra Singh Resident of Village - Masoi, Panchayat - Sirbit, P.S. - Chainpur, District - Kaimur.
2. Mokri Primary Agriculture Credit Society Ltd., Bhabhua, Kaimur through its Chairman Ram Dular Singh S/o Late Ramadhar Singh Resident of Village - Makri, Panchayat - Makri, P.S. - Bhabhua, District - Kaimur.
3. Manihari Primary Agriculture Credit Society Ltd., Bhabhua, Kaimur through its Chairman Gautam Kumar Singh S/o Ramdhwaja Singh Resident of Village - Barna, Panchayat - Manihari, P.S. - Bhabhua, District - Kaimur.
4. Kohari Primary Agriculture Credit Society Ltd., Kohari Bhabhua Kaimur through its Chairman Surendra Kumar Tiwari S/o Late Kameshwar Tiwari Resident of Village - Jamuwaon, P.S. - Bhabhua, District - Kaimur.
5. Machhui Primary Agriculture Credit Society Ltd., Chainpur, Bhabhua Kaimur through its Chairman Rajesh Kumar Singh S/o Sri Shyam Bihari Singh Resident of Village - Machchui, Panchayat - Machhui, P.S. - Chainpur, District - Kaimur.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate, Kaimur at Bhabhua.
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, Kaimur

at Bhabhua.

5. The District Co-operative Office, Kaimur at Bhabhua.
6. The District Supply Officer, Kaimur at Bhabhua.
7. The Block Co-operative Officer, Bhabhua (Kaimur).
8. The Circle Officer, Bhabhua (Kaimur).

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 13421 of 2015

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1. Bharari Kala Primary Agriculture Credit Society Ltd. Chand District-Kaimur at Bhabhua through its Chairman Dadan Singh S/o late Nandlal Singh Resident of Village- Thethua, P.s Chand District Kaimur at Bhabhua.
2. Chouri Primary Agriculture Credit Society Ltd. Chand District Kaimur at Bhabhua through its Chairman Mahendra Singh S/o Late Sharda Singh Resident of Village- Bairi Barsiya, P.S.- Chand, District Kaimur at Bhabhua

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate, Kaimur at Bhabhua.
3. The Bihar State Food and Civil Supply corporation ,through its Managing Director, Bihar Patna.
4. The District Manager, Bihar State Food & Civil Supplies Corporation Corporation , Kaimur at Bhabua.
5. The District Co-operative Officer, Kaimur at Bhabhua.
6. The District Supply Officer, Kaimur at Bhabhua.
7. The Block Co-operative Officer, Chand Bhabhua (kaimur)
8. The Circle officer, Chand Bhabhua(Kaimur)

.... Respondent/s

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Appearance:

(In CWJC No. 12579 of 2015)

For the Petitioner/s : Mr. Rakesh Kumar Jha, Advocate
 For the Respondent/s : Mr. SATYA DEO KUMAR, SC-5
 For the B.S.F.C. : Mr. Shailendra Kumar Singh, Advocate
(In CWJC No. 13242 of 2015)

For the Petitioner/s : Mr. N.K. Agrawal, Advocate
 Mr. Dhananjaya Nath Tiwari, Advocate
 For the Respondent/s : Mr. SYED ARSHAD ALAM, SC-3
 For the B.S.F.C. : Mr. Shailendra Kumar Singh, Advocate

(In CWJC No. 13421 of 2015)

For the Petitioner/s : Mr. N.K. Agrawal, Advocate
 Mr. Dhananjaya Nath Tiwari, Advocate
 For the Respondent/s : Smt. GEETA KUMARI, G.P.-28
 For the B.S.F.C. : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 03-02-2016

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Heard Mr. Rakesh Kumar Jha, learned counsel for the petitioner in CWJC No. 12579 of 2015 and Mr. N.K. Agarwal, learned senior counsel appearing for the petitioners in the other two writ petitions.

Since the issues raised in the three writ petitions are same and hence they have been heard analogous and with the consent of the parties are being disposed of at the admission stage itself.

The petitioners in these three writ petitions are Cooperative Societies registered under the Bihar Cooperative Societies Act, 1935 (hereinafter referred to as the 'Act') and the rules framed thereunder and either by themselves or through their Chairman have approached this Court raising grievance on the inaction of the respondent Corporation to discharge their obligation under the scheme of the Government of India which was enforced in the State of Bihar under the signature of the Chief Secretary dated 19.11.2014. The scheme related to Kharif Marketing Season 2014-15 and under the said Scheme the Cooperative Societies were to make purchase of the paddy from the member farmers by 31.3.2015 and make the supply thereof latest by 15.4.2015 at the purchase centre established by the



Corporation and whereafter the supplies had to be made by conversion thereof as Custom Milled Rice (CMR for the sake of brevity) and which supply has also to be done by 31.8.2015. The purchases had to be supported by enforcement certificate issued by the Enforcement Officer appointed by the District Magistrate. A number of Cooperative Societies being aggrieved by the inaction of the Corporation in raising objections in accepting the supply came before this court and the matter was considered in the backdrop of the scheme. This Court upon hearing the counsel for the petitioner, the Union of India, the State and the Corporation disposed of the matter *inter alia* by upholding such of the claims in which the paddy purchased was supported by the enforcement certificate and the Society concerned had approached this Court within the cut off date fixed in the scheme i.e. 31.8.2015. The issue stands recorded in the judgment of this Court passed in **CWJC No. 10728 of 2015** and other analogous cases. Following the principles so laid, it is seen that these petitioners have approached this Court within the cut off date and hence they are entitled for consideration of the grievance. The District Magistrate, Kaimur under the orders of this Court was directed to constitute a team to carry out a physical verification of the stock claimed by the petitioners-Society in the district of Kaimur vide order passed on 01.12.2015 in CWJC No 11918 of 2015. The Chairman of



the Cooperative Society either by himself or through his authorized representative were directed to be present at the time of inspection and support their claim by producing supporting documents. It is following the direction so issued by this Court that a fact finding report was submitted by the District Magistrate, Kaimur which was filed along with an affidavit in CWJC No. 11918 of 2015. The fact finding report relates to the stock position of all the societies operating in the district of Kaimur. Since the petitioners-Societies in these writ petitions are also operating in the district of Kaimur hence the record of CWJC No. 11918 of 2015, in which the fact finding report has been filed, was called for to consider the claim of these petitioners in the backdrop of the fact finding report.

I have heard learned counsel for the parties and I have perused the records. Since the claim raised in all these writ petitions are based upon the stock held by them, hence it has to be adjudicated in the backdrop of the report submitted by the District Magistrate in CWJC No. 11918 of 2015. Since the complete report is filed in CWJC No. 11918 of 2015, hence I would be referring to the same from the proceedings of the said writ petition.

Reg: CWJC No. 12579 of 2015 (Kurasan Primary Agricultural Cooperative Society Limited)

In this case the petitioner has prayed for a direction to the

respondent Corporation to accept 3886 quintals of paddy. A counter affidavit is filed in the present proceedings containing the extract of the report and mentions 'nil' stock in the rice mill.

Although Mr. Jha learned counsel for the petitioner endeavoured to dispute the position by referring to the overwriting in the report, but considering that despite the order passed by this Court requiring the Chairman of the Society or his authorized representative to be present during the course of inspection, the very fact that the Chairman of this Society did not take steps either to be present herself or to appoint her authorized representative, I would not permit the petitioner to raise any objections on the report and in view of the status present in the report the extract of which is enclosed at page 128 and 129 of the counter affidavit and has not been contested with any rejoinder read with the complete report present at running page 93 of CWJC No. 11918 of 2015, the petitioner is not found entitled to any relief and his claim is accordingly disposed of.

Reg: CWJC No. 13242 of 2015

In this case there are five societies which are as follows:

(i) Sirbit Primary Agriculture Credit Society Ltd

Whereas paragraph-11 of the writ petition discusses the claim of the writ petitioner which is to the tune of 3558 quintals but the fact finding report in relation to this Society present at running page 189 of the report



certifies only 430 quintals of paddy which is lying in the premises of the Chairman while 800 quintals were found in the rice mill. Although a suspicion is raised as regarding the paddy but considering that this stock is supported by the document produced by the Society, I find no reason for any such suspicion. The claim of this petitioner stands modified to the extent of 430 quintals of paddy and 800 quintals of rice as per the report furnished by the inspecting team and is upheld.

(ii) Mokri Primary Agriculture Credit Society Ltd

In terms of paragraph-11 of the writ petition, the petitioner claims a stock of 3800 quintals of paddy which is equivalent to 380 metric tons. The report in relation of Mokri PACS is present at running page 84 and 96 and supports stock of custom milled rice to the tune of 260.8 metric ton which is equivalent to 2608 of quintals. The claim of the petitioner stands modified to that extent and is upheld.

(iii) Manihari Primary Agriculture Credit Society Ltd

The report in relation to this society appears at running page 85 and 98 of the report and although a claim has been made to the extent of 3324 quintals which is equivalent to 332.40 metric tons but the fact finding team has found 239.47 metric tons of rice at the sugar mill which is equivalent to 2394.79 quintals. The claim of the petitioner stands modified to that extent and is upheld.

(iv) Kohari Primary Agriculture Credit Society Ltd.

Although the claim of the petitioner is to the tune of 5344 quintals which is equivalent to 534.4 metric tones but the report present at running page 83 and 95 admits a balance CMR of 3580.4 quintals which is equivalent to 358.04 metric tones. The claim stands modified to that extent and is upheld.

(v) Machhui Primary Agriculture Credit Society Ltd.

In this case although the claim of the petitioner is to the tune of 2558.20 quintals but the report present at running page 197 admits to a balance paddy of 2580.2 and a stock of 1500 quintals of CMR. Since the quantum of paddy reported is the balance remaining with the Society after its supply to the Corporation, hence the stock of custom milled rice would be treated to be the proportionate conversion thereof and thus the claim of this petitioner to the extent of 1500 quintals of CMR stands approved and stands modified to the extent of 1500 quintals of CMR and is upheld.

Reg: CWJC No. 13421 of 2015

In this case there are two societies whose claims are as follows:

(i) Bharari Kala Primary Agriculture Credit Society Ltd.

Although an affidavit is filed in this case but for convenience I would be referring to the running page of the report as present in CWJC No. 11918 of 2015.

The claim of this petitioner appears at running page 158 of the report and upholds a balance stock of 6195 quintals after the supply made by this Society to the Corporation from the purchases made from the member farmers duly supported by the enforcement certificate. The stock claimed by the petitioner stands upheld.

(ii) Chouri Primary Agriculture Credit Society Ltd.

The claim of this petitioner is at running page 160 of the report and supports a balance of 4852 quintals deposited in the rice mill while 3997 quintals of paddy is remaining in the godown. The claim of the petitioner of balance stock stands supported and is upheld.

Having heard learned counsel for the parties and finding the claim of the petitioners in CWJC No. 13242 of 2015 and CWJC No. 13421 of 2015 supported by the report given by the fact finding team albeit with modification, the claim of the petitioners society in these two writ petitions stand upheld and stand modified as per the report of the fact finding team as already discussed by me hereinabove. The Corporation and its authorities would be obliged to accept the supply of the custom milled rice from these petitioners. The petitioner in CWJC No. 13242 of 2015 and CWJC No. 13421 of 2015 are directed to make supplies of the custom milled rice in their stock in tune with

the report given by the fact finding team forthwith and insofar as the paddy stock is concerned they shall convert the same into custom milled rice form and make the proportionate supply thereof within a fortnight from today. It is made clear that no further time would be granted to the societies. The Corporation, the State and the Union of India would be under a duty to ensure the payment of the custom milled rice so supplied by these societies as found admissible.

The three writ petitions are accordingly disposed of.

(Jyoti Saran, J)

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