

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1859 of 2016

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Ajay Kumar Singh, son of Late Bihari Singh, Resident of Village- Awarhi, P.S.-
Dawath, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Cooperative Department, Bihar, Patna.
3. The Registrar, Co-operative Societies, Bihar, Patna.
4. The Deputy Registrar, Co-operative Societies, Bihar, Patna.
5. The District Co-operative Officer, Rohtas (Sasaram).
6. The Block Cooperative Extension Officer, Dawath Block Bikramganj, Circle-
Rohtas.
7. Block Agriculture Officer.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar

For the Respondent/s : Mr. Kamal Kumar Sinha, AC to AAG-2

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 02-03-2016

Heard Mr. Sanjeev Kumar, learned counsel appearing
for the petitioner and Mr. Kamal Kumar Sinha, learned Assisting
Counsel to Additional Advocate General No.2 for the State.

The petitioner is aggrieved by that part of the order
dated 8.1.2016 passed by the District Cooperative Officer, Rohtas
at Sasaram in Surcharge Case No.16 of 2015 whereby the District
Cooperative Officer even while dismissing the recommendation for
initiation of surcharge proceedings against the petitioner, has
exceeded his jurisdiction to put a restraint on the petitioner who
happens to be the Chairman of Jamsona Primary Agriculture Credit
Cooperative Society in the district of Rohtas from procuring
paddy/wheat for next one year.



A very short submission has been made by Mr. Kumar, learned counsel appearing for the petitioner to question the restraint order and with reference to the provisions of section 40 of the Bihar Cooperative Societies Act, 1935 (hereinafter referred to as 'the Act') which enables a Registrar to draw surcharge proceeding against a defaulting representative of the managing committee of the society he submits that the restraint order is clearly outside such jurisdiction and the matter is even worse because in the present case the proceeding has been dropped.

A shoddy counter affidavit has been filed by the respondent District Cooperative Officer and I am sorry to note that he has the least appreciation of the statutory provisions as well as the responsibility cast upon him, as a Registrar while exercising jurisdiction under section 40 of 'the Act'.

Whether or not a Chairman of cooperative society is eligible and competent enough to procure paddy/wheat from its member-farmers is an issue completely distinct from an issue of surcharge and in so far as the present case is concerned it is rather unfortunate that even when the District Cooperative Officer has opined that the materials are not present against the petitioner to draw surcharge proceeding which has been dismissed, yet he continues to exercise extra jurisdictional power to restrain him from making purchase of paddy/wheat from its member-farmers. The



right of the petitioner to procure wheat/paddy from its member-farmers draws from the provisions of 'the Act', guidelines issued and the schemes formulated by the Government of India, the State Government from time to time and in case there is no other impediment in the way of the petitioner-Chairman to procure the same and if he is not otherwise disqualified to do so under any of the stipulations present, no such restraint order can be passed. I would go a step further to hold that unless there is any such proceeding initiated against the petitioner for disqualifying him from procuring wheat/paddy and there is an order of such nature, no such restraint order can be passed.

For the reasons aforementioned the part of the order dated 8.1.2016 passed by the District Cooperative Officer, Rohtas at Sasaram in Surcharge Case No.16 of 2015 in so far as it puts a restraint on the petitioner to procure wheat/paddy from its member-farmers for the next one year cannot be upheld and is accordingly set aside.

The writ petition is allowed.

(Jyoti Saran, J)

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