

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18924 of 2016

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1. Zirwa Madholli Primary Agriculture Credit Cooperative Society Ltd., Block - Shankarpur, District - Madhepura through Chairman Siya Ram Yadav Son of Late Mochan Yadav, resident of village - Hirolwa, P.O. & P.S. Shankarpur, District - Madhepura

.... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, 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 Co - Operative officer, Madhepura

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Adv.
For the Respondent/s : Mrs. Ratna Kumari, A.C. to PAAG2

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-11-2017

Heard Mr. Shashi Bhushan Kumar, learned counsel for the petitioner and Mrs. Ratna Kumari, learned Assistant Counsel to Principal Additional Advocate General No.2 for the State.

2. This writ petition has been filed for quashing part of the order issued vide Memo No. 684 dated 02.12.2014 by the District Magistrate, Madhepura by which the petitioner Zirwa Madholli Primary Agriculture Credit Co-operative Society Limited (for short 'PACCS') has been restrained from purchase of paddy from its farmer members on the ground that the Chairman of the PACCS Siya Ram Yadav, who is proprietor of Hirolwa Rice Mills, is defaulter



with the Bihar State Food and Civil Supplies Corporation of an amount of Rs.53,48,208/-.

3. Learned counsel for the petitioner submitted that Siya Ram Yadav is elected Chairman of the PACCS for the tenure 2014-19. He submitted that though there is no dues against the PACCS till date, the District Magistrate, Madhepura has passed he impugned restrain order on the basis of the fact that the Chairman of the PACCS is also the proprietor of a rice mill, which has defaulted with the Bihar State Food and Civil Supplies Corporation in supply of custom milled rice. He submitted that default by the person elected as Chairman of the PACCS could not have been made a ground for passing the restrain order for purchase of paddy by the PACCS in question. He submitted that by the impugned order itself Khokhsi Primary Agriculture Credit Cooperative Society in the district of Madhepura was also restrained from purchase of paddy from its farmer members inter alia on the ground that its Chairman Shailesh Kumar Singh was in default with the Bihar State Food and Civil Supplies Corporation of an amount of Rs.5,65,04,084/-. When the aforesaid Shailesh Kumar Singh challenged the order of the District Magistrate before this Court in C.W.J.C. No. 1447 of 2015, this Court, vide order dated 24.08.2015, set aside the order of the District Magistrate, Madhepura in so far as it restrained the Khokhsi Primary



Agriculture Credit Cooperative Society from making procurement. He submitted that there is neither any surcharge proceeding pending against the petitioner PACCS nor it has been found to have defaulted in any procurement season.

4. Per contra, learned counsel for the State submitted that the order impugned was passed by the District Magistrate for the procurement season 2014-15 and since the period has already ended, the issued raised in the present writ petition has lost its relevance. She submitted that the petitioner has not disputed the fact that the Chairman of the PACCS is in default and, thus, no error can be found with the order passed by the District Magistrate whereby the PACCS has been restrained from procuring paddy from the farmers.

5. I have heard learned counsel for the parties and perused the record.

6. It would be evident from the impugned order issued, vide Memo No. 684 dated 02.12.2014, that the restrain order is not limited to the procurement season 2014-15 only rather it says that till the dues amount is not paid by Siya Ram Yadav, Chairman of the PACCS to the Bihar State Food and Civil Supplies Corporation, the PACCS shall be restrained from purchase of paddy from its farmers. Thus, even if the procurement season 2014-15 has ended, the issue raised in the writ petition cannot be said to have lost its relevance.



7. The order passed by the District Magistrate cannot be sustained for the simple reason that as far as the PACCS in question is concerned there is no allegation that it had defaulted in making payment of any amount to the Bihar State Food and Civil Supplies Corporation or in returning it the custom milled rice. For the default, if any, of the Chairman in his private capacity, who has not even been disqualified from contesting the election, the PACCS cannot be penalized. The fact that there is no pending proceeding against the PACCS in question has not been disputed by the respondents.
8. In that view of the matter, the order of the District Magistrate, Madhepura issued, vide Memo No. 684 dated 02.12.2014, in so far as it restrains the petitioner PACCS from making procurement, is held illegal and is accordingly set aside.
9. The writ petition is allowed to the extent indicated hereinabove.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	30-11-2017
Transmission Date	

