

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10465 of 2014

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1. Rajesh Kumar Thakur son of Late Dr. Karijanand Thakur resident of - 206 Mahadevi Apartment, East Lohanipur, P.S. - Kadamkuan, District - Patna - 1.
 2. Lalan Kumar Chaudhary son of Sri Dayanand Chaudhary resident of Village + Post - Babhani, P.S. - Gamhariya, District - Madhepura.
 3. Kishori Rai son of Gudar Rai resident of village - Harpur, P.O. - Dih Jiber, P.S. - Hathori, District - Muzaffarpur.
 4. Manoj Kumar son of Late Bimal Kumar Singh resident of Andharkila Sidhighat Road, P.O. - Hajipur, P.S. - Nagar Hajipur, District - Vaishali.
 5. Shiv Nandan Prasad Yadav son of resident of Village + P.O. - Gaurgama, P.S. Amarpur, District - Banka.
 6. Tej Narayan Singh son of Late Dharam Deo Singh resident of Amdal, P.O. - Birhima Bazar, P.S. - Baruraj, District - Muzaffarpur.
 7. Alim Ansari son of Md. Ashgar Ali resident of Baburban, Post - Baburban, Via - Birhima Bazar, District - Muzaffarpur.
 8. Arvind Kumar Dwivedi son of Late Ramanand Dwivedi resident of village + Post Churhatta, P.S. - Baruraj, District - Muzaffarpur.
 9. Asad Karim son of Late Md. Shahadat Hussain resident of Village + Post - Samastipur, P.S. - Sakra, District - Muzaffarpur
- **Petitioners**

Versus

1. The State of Bihar through the Principal Secretary, Agriculture Department, Bihar, Patna.
2. The Director of Agriculture, Bihar, Patna.
3. The Deputy Director (Form), Bihar, Patna.
4. The Joint Director of Agriculture, Tirhut Division, Muzaffarpur.
5. The Agriculture Production Commissioner, Bihar, Patna

.... **Respondents**

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Appearance :

For the Petitioners : Mr. Ramendra Nath Mukhopadhaya,
Advocate
For the Respondents : Mr. Lalan Kumar, AC to GP 9

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 08-12-2017

Petitioners are aggrieved by a direction dated 3.3.2014 (Annexure 1), issued by the respondent Joint Director of Agriculture, Tirhut Division, Muzaffarpur directing to recover some amount from their salary towards the loss in production of crops during the period 2013-14. The said action is pursuant to Annexure 2



which is the guidelines, notified on 16.7.2013 by the Director of Agriculture, Patna.

2. Counsel for the petitioners has drawn attention of the Court towards Clause (5) of the guidelines which authorizes the recovery in case of crop yield lesser than the target, given in Clause (39) of the notification. Clause (30) of the notification however provides the exception that if loss is occasioned due to flood or other natural calamity, then after spot inspection, the nature and quantum of loss is to be assessed by the District Agriculture Officer with reference to the difference of expenses incurred on the agricultural activity and the crop produced and report is to be submitted. Petitioners have placed on record reports submitted by the authorities including the Bihar State Seeds Corporation as well as harvest reports submitted by the authorities of the Agriculture Department. Same are Annexure 3 series of the writ petition. The reports show that loss has been occasioned in the relevant period for the year 2013-14 due to water logging caused by heavy rain. Petitioners submit that the same is due to one cyclone “Phylin”. Some of the reports however show that loss has been occasioned otherwise also. Pursuant to the aforesaid reports, the authorities have straightway directed for recovery from the petitioners holding them responsible for the loss occasioned in the agricultural yield of 2013-14. Attention of the



Court is drawn towards the letter dated 6.2.2014 issued under the signature of the Principal Secretary of the Agriculture Department, Government of Bihar.

3. From perusal of Annexure 1/1 of the writ petition, it appears that for the same period the various district officers including the District Agricultural Officer, Muzaffarpur, where the instant petitioners were posted, have been directed to distribute the special agricultural input grant in view of loss occasioned by the cyclone “Phylin”. This Annexure 1/1 again cannot co-exist with the impugned order contained in Annexure 1 which directs recovery from the petitioners, holding them responsible for the low agricultural yield in the same area during the same period. The reports however which have been submitted by the Seeds Corporation as well as the authorities of the Department of Agriculture, Government of Bihar show that the loss occasioned during the said period was of two kinds one due to cyclone “Phylin” and due to reasons otherwise. As regards loss occasioned due to cyclone “Phylin” or other such natural calamities, the same will be covered by Clause (30) of the said guidelines dated 16.7.2013 which contemplates submission of a report pursuant to spot inspection. Such reports have been placed on record by petitioners at Annexures 3 series which show loss in crop yield due to natural reasons.



Annexure 1/1 issued by the Principal Secretary, as noticed above also acknowledges the loss occasioned due to cyclone “Phylin”, i.e. natural reasons.

4. Counter affidavit has been filed on behalf of the State. From the same, counsel is not in a position to point out that any exercise has been undertaken to quantify the loss occasioned for reasons attributable to petitioners, other than natural, before holding petitioners responsible and saddling them with the liability for the loss occasioned in the area.

5. Counter affidavit also does not show that after bifurcating loss, any opportunity has been given to the petitioners or at least such reports have been made available to the petitioners after identifying the loss attributable to them, other than that caused by the cyclone “phylin”. In view of the aforesaid exercise having not been done, recovery as directed under Annexure 1 dated 3.3.2014 and the action undertaken pursuant thereto, are unjustified and Annexure 1 dated 3.3.2014 is hereby quashed.

6. It would however be open to the Principal Secretary, Agriculture Department, Bihar (respondent no.1) to undertake the exercise so as to assess the loss occasioned due to the reasons other than cyclone “Phylin” on basis of the existing reports and only after undertaking such exercise of identifying/quantifying loss attributable



to the petitioners, any recovery under the guidelines dated 16.7.2013 would be permissible. Such action must be undertaken in accordance with law within a period of two months from the date of receipt/production of a copy of this order.

7. This Court is informed that some recovery has also been made from the petitioners during pendency of the writ petition. If that is the situation, respondents would be obliged to return the amounts, recovered without any basis if such exercise as indicated above is not completed within the time indicated above, otherwise if any loss is found attributable to the petitioners, the recoveries already made would be subject to adjustment with reference to the quantum of liability assessed as above.

8. The writ petition is thus allowed.

(Madhuresh Prasad, J)

Shashi.

NAFR	
CAV DATE	NA
Uploading Date	14.12.2017
Transmission Date	NA

