

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9906 of 2018

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Anil Kumar Son of Late Dinesh Sharma Resident of Village - Belsar, Police
Station - Mehandia, District - Arwal.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Co-operative Department,
Govt. of Bihar, Patna.
2. The Divisional Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Arwal.
4. The District Co-operative Officer, Arwal.
5. The Block Co-operative Officer, Arwal.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajesh Kumar, Advocate
Mr. Santosh Kumar Pandey, Advocate
For the State : Mr. Dinesh Maharaj, AC to AAG-11

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 12-10-2018

In the instant writ petition, the petitioner has challenged the letter dated 11.01.2018 contained in Memo No. 40 issued under the signature of respondent District Magistrate, Arwal whereby he has tagged Belsar Primary Agriculture Credit Co-operative Society (for short 'PACCS') with Sakari Khurd for procuring surplus paddy for the financial year 2017-18.

2. The petitioner is the elected Chairman of Belsar



PACCS. Other members of Beslar PACCS are also duly elected. Respondent no. 5 is the nominated Executive Officer of the PACCS. During the financial year 2015-16, respondent District Co-operative Officer conducted an inquiry to the Centers of the petitioner's PACCS and found certain irregularities in purchase of paddy and for that an FIR was instituted in the police station *inter alia* under Sections 420, 467, 468, 471 and 120 B of the Indian Penal Code. Subsequently, the purchase of paddy from the farmers within Belsar PACCS was attached with Uttari Kaler PACCS vide Memo No. 93 dated 01.02.2016. Later on, Government of Bihar issued letter no. 5763 dated 14.11.2017 with regard to implementation of the scheme relating to purchase/collection of the paddy directly from the farmers for the financial year 2017-18. The District Magistrate, Arwal vide impugned letter dated 11.01.2018, as contained in Memo No. 40 attached Belsar PACCS with Sakari Khurd for procuring the surplus paddy for the financial year 2017-18.

3. Being aggrieved by the aforestated letter dated 11.01.2018, the present writ petition has been filed.

4. Mr. Rajesh Kumar, learned counsel for the petitioner submitted that the impugned order dated 11.01.2018 passed by the District Magistrate, Arwal is in complete departure to the mandate of the Bihar Co-operative Societies Act, 1935. The respondent no. 3 is



not competent to pass an order attaching one PACS with another. In absence of any express or implied power vested in the District Magistrate under the Bihar Co-operative Societies Act, 1935, no such order of attachment of the petitioner's PACCS with another PACCS could have been passed.

5. On the other hand, Mr. Dinesh Maharaj, learned counsel for the State submitted that the Government of Bihar has issued letter no. 5763 dated 14.11.2017 with regard to implementation of the scheme relating to purchase/collection of the paddy directly from the farmers for the financial year 2017-18 whereby for the purpose of purchase from the genuine and registered farmers, the District Magistrate has been conferred with jurisdiction to have overall supervision and control and in exercise of that power he has passed the order, as the petitioner's PACCS was found indulged in committing several irregularities in the matter of procurement of paddy from farmers.

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

7. To ensure minimum support price to the farmers for different varieties of paddy and to ensure timely milling of procured paddy with effective and efficient use of available rice mill capacity through custom milling and levy routes and timely delivery of rice



by the millers to the Food Corporation of India depots as also to ensure timely availability of rice for public distribution systems across the State, the Government procures paddy for different kharif marketing seasons under the food and procurement policy. Under the scheme farmers are able to sell their paddy as close as possible by locating paddy purchase centre in close proximity. The payment of paddy purchased from the farmers of the State agencies or from authorized societies or miller agents is made through account payee cheque or through direct transfer to the bank accounts of the farmers of every PACCS/society.

8. The role of District Administration is to ensure that the estimated procurement target of PACCS is taken care of.

9. It is true that the District Magistrate has the power of monitoring and supervision in respect of procurement of paddy, delivery of paddy to custom millers and custom milled rice received from the custom millers. However, no such power is vested in the District Magistrate through which he may tag one PACCS with another for procuring surplus paddy directly from the farmers. The District Magistrate having power of monitoring and supervision to implement the scheme does not automatically inherit the power to tag one PACCS with another.

10. In absence of such power, the impugned letter dated



11.01.2018, as contained in Memo No. 40 issued under the signature of respondent District Magistrate, Arwal cannot be sustained. It is set aside, accordingly. The writ petition stands allowed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.10.2018
Transmission Date	NA

