

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13923 of 2016

=====

Lakshmi Narayan Prasad S/o Late Shankar Prasad Resident of village /
Mohalla - Bashuhari, Post office Balua, Police Station Guthani and District
Siwan

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Govt. of Bihar Patna
2. The Principal Secretary - Cum - Agriculture Production, Commissioner,
Department of Agriculture, Go
3. The Director of Agriculture, Department of Agriculture, Government of
Bihar, Main Secretariat, Patn
4. The Joint Director of Agriculture, Tirhut Division, Muzaffarpur
5. The District Agriculture Officer, West Champaran, Bettiah
6. The Sub - Divisional Agriculture officer, Bagha

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Avinash Kumar & Mr. Krishna Chandra
For the Respondent/s : Mr. Ashok Kumar Pathak

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 04-04-2019 Heard learned Counsel for the petitioner and the
learned Counsel for the respondent State.

The petitioner has filed the writ petition assailing the
order dated 20.5.2014 passed by Joint Director of Agriculture,
Tirhut Division and confirmation of the same by the appellate
order passed by Director of Agriculture. The two orders are
dated 20.5.2014 and 20.5.2016 respectively. The petitioner has
been made to compulsorily retire by effect of the said orders on
allegation that there was no yield of paddy crop in the kharif
season for year 2013-14.



The petitioner at the relevant time was Farm Assistant in the Seed Multiplication Farm, Ramnagar. The petitioner is aggrieved by the said orders.

It is submitted that in the kharif year 2013-14 the area was affected by the cyclone Phyllin. The same caused wide spread damage to crops and had occasioned water logging in the various area causing destruction of kharif crops in the area during period regarding which allegation is attributed to the petitioner.

In this regard the petitioner had persuaded the authorities to take a view otherwise. When the authorities failed to consider petitioner's plea and the order dated 20.5.2014 was issued compulsorily retiring the petitioner, he had approached this Court by filing CWJC No. 8559 of 2014. The petitioner was relegated to remedy of appeal. Appeal was filed by the petitioner before the Appellate Authority -cum- Agriculture produce Commissioner, Bihar, Patna on 1.7.2014. The Appellate Authority has affirmed the compulsory retirement of the petitioner.

It is pointed out by the petitioner's Counsel that in the appeal filed by the petitioner before the Appellate Authority he had brought to the notice of the Appellate Authority the joint



inspection report submitted by Scientist, Sub Divisional Agriculture Officer as well as District Agriculture Officer dated 4.12.2013. From bare perusal of the same it is apparent that the agricultural yield in the kharif season in 2013-14 was negligible. In the instant proceeding he has also placed reliance on the report of the Sub Divisional Agriculture Officer, Bagha dated 12.4.2014 wherein he has written to the Joint Agriculture Director, Tirhut Division, regarding widespread loss of crops caused on account of cyclone Phyllin.

The Appellate Authority on the other hand in his order dated 20.5.2016 without considering the joint inspection report dated 4.12.2013 which was relied upon by the petitioner in his appeal as also without considering the communication of the Sub Divisional Agriculture Officer, Bagha dated 12.4.2014 has arrived at the baseless finding in the appellate order that there is no loss occasioned on account of cyclone Phyllin in the district of West Champaran. The said conclusion is without any basis or reference to any report or document in the order passed by the Director Agriculture dated 20.5.2016. On the contrary, before the said Appellate Authority the joint inspection report was there which clearly reported a very negligible crop yield in the concerned kharif season.



The petitioner has also brought on record the report of the Sub Divisional Agriculture Officer, Bagha showing that in view of the damaged occasioned on account of cyclone Phyllin the Sub Divisional Agriculture Officer had recommended that no recovery should be made in respect of low or no yield in the season concerned. After taking into consideration the said report, the Appellate Authority should have considered the claim of the petitioner. The same has not been done. It was also to be noticed that the order of the Appellate Authority is without considering the said document in spite of the fact that this Court in the order dated 3.8.2015 on petitioner's earlier writ petition bearing CWJC No. 17001 of 2014 had specifically directed disposal of the appeal. Such direction clearly entails disposal of the appeal by a reasoned and speaking order considering the facts on record.

Since the said fact which was placed on record by the petitioner in the appeal has not been considered by the Appellate Authority the order of the Appellate Authority dated 20.5.2016 is hereby quashed. Having regard to the said joint inspection report dated 3.12.2012 as well as the report of the Sub Divisional Agriculture Officer, Bagha dated 12.4.2014 the Appellate Authority should take a final decision on the appeal.



In this regard this Court would also consider that in respect of others who were visited with penal orders on account of shortage in the crop for the same season, the claim of the petitioners for being pardoned or excused for the loss or negligible crop yield on account of cyclone Phyllin has been allowed by this Court in the proceedings arising out of CWJC No. 10465 of 2014. Carrying forward to the direction of this Court in the said proceeding the respondents themselves have exempted the authorities from any penal action on account of damaged caused due to cyclone Phyllin.

Having regard to the said fact also, the petitioner would be entitled to similar treatment as has been meted out to the petitioner of CWJC No. 10465 of 2014.

The writ petition is allowed. The final order should be passed by the Appellate Authority within four weeks from the date of receipt/production of a copy of this order by a reasoned and speaking order.

(Madhuresh Prasad, J)

SNkumar/-

U			
---	--	--	--

