IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17404 of 2017

==

Anil Kumar Singh S/o Bashisth Narayan Singh R/o Village +P.O. - Rulahi, P.S. Block - Majhaulia, District - West Champaran, Bihar, The Present Chairman of Rulahi PACS.

... ... Petitioner

Versus

1. The State Of Bihar through General Secretary Govt. of Bihar, Old Secretariat, Patna.
2. Principal Secretary Deptt. of Cooperative Societies, Govt. of Bihar, New Secretariat, Patna.
3. Registrar Co-operative Societies, New Secretariat, Patna, Bihar.
4. District Magistrate, West Champaran, Bettiah.
5. District Agriculture Officer, West Champaran at Bettiah.
6. District Co-operative Officer, West Champaran at Bettiah.
7. District Account Officer Sahyog Samitti West Champaran at Bettiah.
8. Block Co-operative Officer Majhaulia, West Champaran, Bihar.
9. The Chairman Cum Managing Director Agriculture Insurance Company of India Ltd. 13th Floor, Amba Deep, 14, Kasturba Gandhi Marg, Cannaut Palace, New Delhi.
10. The Regional Manager Agriculture Insurance Company 1st Floor Unis Corporate S.P. Verma Road, Patna,
11. The Managing Director National Central Cooperative Bank Ltd. Head Office, Bettiah, West Champaran.
12. The Branch Manager, National Central Cooperative Bank Limited Majhaulia Branch, West Champaran.
13. The Union of India through the Secretary of Agriculture Deptt and Secretary t of Co-operative Department.

... ... Respondents

==

with

Civil Writ Jurisdiction Case No. 7830 of 2017

==

1. Babulal Yadav, S/o Late Jotik Yadav, resident of Parsa, P.O.- Parsa Block and P.S.- Majhaulia, District- West Champaran, Bihar.
2. Radheshyam Mahto, S/o Late Thakur Mahto, resident of Parsa, P.O.- Parsa Block and P.S.- Majhaulia, District- West Champaran, Bihar.
3. Jiut Thakur, S/o Late Sukhdeo Thakur, resident of Parsa, P.O.- Parsa Block and P.S.- Majhaulia, District- West Champaran, Bihar.
4. Sachindra Kumar, S/o Chandradeo Singh, resident of Parsa, P.O.- Parsa Block and P.S.- Majhaulia, District- West Champaran, Bihar.

... ... Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Department of Co-operative, Government of Bihar, New Secretariat, Bihar, Patna.
3. The Registrar, Co-operative Societies, New Secretariat, Bihar, Patna.
4. The District Magistrate, West Champaran at Bettiah.
5. The District Agriculture Officer, West Champaran at Bettiah.
6. The District Co-operative Officer, West Champaran at Bettiah.
7. The District Accounts Officer Shayog Samitteeya, West Champaran at Bettiah.
8. The Block Co-operative Extension Officer, Majhaulia, West Champaran.
9. The Chairman Cum- Managing Director, Agriculture Insurance Company of India Ltd. 13th Floor Amba Deep 14 Kasturba Gandhi Marg Cannaught Place, New Delhi.
10. The Regional Manager, Agriculture Insurance Company 1st Floor Yunus Corporate, S.P. Verma Road, Patna.
11. The Managing Director, National Central Co-operative Bank Limited, Head Office, Bettiah, West Champaran.
12. The Branch Manager, National Central Co-operative Bank Limited, Head Office, Bettiah, West Champaran.
13. The Union of India, through Secretary of Agricultural Department and Secretary of Co-operative Department, Govt. of India, New Delhi.

... ... Respondents

==

Appearance :

(In Civil Writ Jurisdiction Case No. 17404 of 2017)

For the Petitioner/s	:	Mr.S.R.P. Sinha Baxi, Sr.Adv.
		Mr. Ramendra Kumar Bharti, Adv.
For the State	:	Mr.Uday Shankar Sharan Singh, GP-19
For the AIC	:	Mr. Rajen Sahay, Adv.
For the Bank	:	Mr. Bindhayachal Rai, Adv.

(In Civil Writ Jurisdiction Case No. 7830 of 2017)

For the Petitioner/s	:	Mr.S.R.P. Sinha Baxi, Sr.Adv.
		Mr. Ramendra Kumar Bharti, Adv.
For the State	:	Mr.Uday Shankar Sharan Singh, GP-19
For the AIC	:	Mr. Rajen Sahay, Adv.
For the Bank	:	Mr. Bindhayachal Rai, Adv.

==

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

5 04-09-2019 Heard learned Senior Counsel for the petitioners in

both the writ applications. Learned counsel for the respondents-State, Insurance Company as well as the National Central Cooperative Bank, Bettiah are also present and they have made their submissions.

The petitioners in both the writ applications are the farmers of Rulahi and Parsa PACS who are aggrieved by and dissatisfied with the letter dated 28th May, 2014 written by the Regional Manager, Agriculture Insurance Company of India Limited (hereinafter referred to as the 'Insurance Company') to the Managing Director of the National Central Cooperative Bank Limited (hereinafter referred to as the 'National Central Cooperative Bank') by which the Insurance Company has communicated repudiation of the claims of the farmers of Parsa and Rulahi PACS on the basis of a report said to have been submitted by the District Cooperative Officer, Bettiah. The reason for repudiation of claim is contained in the impugned communication (Annexure '11') which is reproduced hereunder:-

> *"(i) As the District Cooperative Officer, Bettiah has submitted a report indicating multiple coverage of same farmers by Parsa and Rulahi PACS under Potato and Onion crop, the said farmers' claims amounting to Rs. 2,86,79,622.52 is hereby repudiated."*

Learned senior counsel for the petitioners has assailed the repudiation of claim on the ground that subsequent to the repudiation the District Audit Officer had re-enquired into the matter and had reported the claim of the petitioners genuine. It appears that one Sanjay Kumar Choubey made a representation against the repudiation action vide letter dated 19.10.2016 addressed to the Regional Manager of the Insurance Company. The said representation was replied by the Insurance Company vide their letter dated 16.11.2016 (Annexure ‘18’) wherein said Sanjay Kumar Choubey was informed that the information with regard to the claim in question has already been made available to the Central Cooperative Bank vide letter no.REF:NA:RA-09-10:CLMS:94:2014 dated 28.05.2014. Said Sanjay Kumar Choubey has not approached this Court. Save and except the aforesaid representation of Sanjay Kumar Choubey no other material has been brought on record on behalf of the petitioners to demonstrate that the letter of repudiation dated 28.05.2014 had ever been challenged before any competent authority, court/forum or that any representation was made on behalf of the PACS before the competent authority. The present writ application has been filed almost three and half years after the repudiation of claim and, therefore, the first objection which has been taken on behalf of the Insurance Company is of the delay and laches on the part of the petitioners in filing the writ application.

Learned counsel representing the Insurance Company has opposed the writ applications saying that the repudiation of claim is based on the report received from the District Audit Officer which was forwarded to the Insurance Company by the District Cooperative Officer. It is further submitted that once the Insurance Company had acted on the report of the District Accounts Officer and the claim had been repudiated, the same District Audit Officer could not have written a fresh report as contained in letter no. 84 dated 24.06.2014 (Annexure '15') at the instance of one of the farmers. Learned counsel has informed this Court with reference to Annexure '19' to the writ application that in fact it is the subsequent report of the District Audit Officer, Bettiah which has created this controversy inasmuch as he acted on his own on the application of one Sri Kamakhya Narayan Singh, wrote a fresh report much after the repudiation of claim and then made a copy of the same available to the said Sri Kamakhya Narayan Singh only even as the same was not sent to the concerned department.

These facts have been disclosed in the information furnished to the Deputy Secretary to the Government-cum-Public Information Officer, Department of Cooperation, Bihar , Patna as contained in Annexure '19' to the writ application. Learned counsel, therefore, submits that the fresh report of the District Accounts Officer cannot give rise to a fresh cause of action to the petitioner.

Learned counsel for the Insurance Company has further submitted that under the present scheme the Insurance Company is the implementing agency, the entire fund is made available by the Central Government and the State Government therefore, if the State Government is willing to look into the matter afresh, take a decision thereon in favour of the farmers of the two PACS and make available the required funds for the same the Insurance Company being the implementing agency will go by the decision of the government.

Learned counsel for the Central Cooperative Bank has come out in support of the writ applications. It is submitted that the Central Cooperative Bank had submitted the proposal forms and remitted all the premium which the Bank had received from the PACS to the Insurance Company. It is submitted that having accepted the proposal with the premium the Insurance Company cannot turn around to say that they will give the benefit of the Insurance Company to the beneficiary farmers.

The State-respondents have also filed a counter affidavit. The affidavit mentions the fact that the then Audit Officer had found the claims of the farmers suspicious but then it further states that the farmers of the Rahuli PACS had filed a petition to the then District Audit Officer and thereafter the then District Audit Officer had re-enquired the matter himself and found that crop insurance of most of the farmers are genuine and accordingly report was submitted to the Principal Secretary, Department of Cooperative, Bihar and the Regional Manager the Agriculture Insurance Company of India vide letter no. 46 dated 07.05.2013.

At this stage, learned counsel for the Insurance Company has drawn the attention of this Court towards the fact that what was forwarded by the District Cooperative Officer vide letter no. 46 dated 07.05.2013 was the first report of the District Audit Officer as contained in letter no. 356 dated 06.12.2012. So far as the subsequent report is concerned as has been shown from Annexure '19' to the writ application the same was not sent to the Department or to the Insurance Company, therefore, the counter affidavit of the District Audit Officer is to that extent vague and misleading.

The another affidavit which has been filed is on behalf of the District Cooperative Officer. He has also refereed to his letter no. 446 dated 07.05.2013. He has further stated that subsequently the District Audit Officer had enquired the matter himself and had found that the crop insurance of farmers of Parsa PACS are genuine. Once again this affidavit is vague inasmuch as it states that the report was sent to the learned Lokayukta and the Principal Secretary of the Department vide letter no. 446 dated 07.05.2013. In fact the subsequent report of the District Audit Officer is dated 24.06.2014, therefore the said report cannot be and could not have been sent by the District Cooperative Officer vide his letter dated 07.05.2013. Apparently in both the affidavits of the District Audit Officer and the District Cooperative Officer vague statements have been made which are misleading in nature.

Having heard learned Senior Counsel for the petitioners and learned counsel for the above-said respondents, this Court is of the considered opinion that the Insurance Company is perfectly justified in proceeding to consider the claim of the PACS on the basis of the report of the then District Audit Officer which was forwarded to the Insurance Company by the District Cooperative Officer vide his letter no. 446 dated

07.05.2013. Learned counsel for the Insurance Company seems to be correct in arguing that the scheme in question is to be funded by the Central Government and the State Government and so far as the role of the Insurance Company is concerned it is only acting as an implementing agency, therefore the Insurance Company was justified in acting upon on the basis of the report of the District Audit Officer which was forwarded by the District Cooperative Officer vide his letter no.446 dated 07.05.2013.

This Court is also of the considered opinion that once the claim in question had been repudiated it could have been challenged by the petitioners or any body else having a right to do so within a reasonable period but for a considerable period of over three years no challenge was made to the repudiation action. For the first time this writ application seems to have been filed after three and half years. The only basis to challenge the action of repudiation is the subsequent audit report of the same District Audit Officer namely Mr. Kundan Lal who had taken upon himself a fresh exercise of enquiry on receipt of an application from a farmer namely Sri Kamakhya Narayan Singh. Let it be mentioned that the first enquiry was conducted by him on the assignment given to him by the District

Magistrate through the District Cooperative Officer but the fresh enquiry which was started after repudiation action, has been conducted by him on his own and even at this stage he has not contacted the Insurance Company before taking a view to reverse his earlier finding in the first enquiry report. The information furnished under Annexure '19' to the writ application shows that the subsequent report was not sent to the department but a copy thereof was made available to Sri Kamakhya Narayan Singh, the farmer.

In the given facts and circumstances of the case, the subsequent enquiry report as contained in letter no. 84 dated 24.06.2014 cannot be made a basis to interfere with the repudiation action that too when the writ application has been presented before this Court after three and half years from the date of repudiation of claim. This Court sitting under Article 226 of the Constitution of India would not take upon himself an exercise to record a finding of fact by weighing the materials which may have been taken note of by the District Audit Officer in his first report and the subsequent report. If at all the State-respondents are willing to take a fresh view of the matter by conducting a fresh enquiry by taking into consideration all quantifiable datas, it is always left open for the State

Government to take a view on that and proceed to take a decision if so willing to benefit the farmers. So far as this Court is concerned, no interference with the repudiation action is required on the basis of the subsequent report which in fact does not inspire confidence of this Court in the given facts and circumstances.

This writ application stands disposed of with the aforesaid observations.

(Rajeev Ranjan Prasad, J)

arvind/vats

U			