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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1343 of 2020

1. Prathmik Krishi Sakh Sahkaari Samiti Maryadit Phuljhar Mungeli Registration No. 1222, Village And Post Phulwari, Tehsil Lormi, District Mungeli Chhattisgarh Pin Code 495 115.

Through Its President Shri Phool Singh Sahu S/o Shri Mitthu Sahu Aged About 64 Years, Presently Discharging The Functions Of And As President, Prathmik Krishi Sakh Sahkaari Samiti Maryadit, Phuljhar, Mungeli, Registration No. 1222, Village And Post Phulwari, Tehsil Lormi, District Mungeli Chhattisgarh Pin Code 495 115., District : Mungeli, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department of Food And Civil Supplies, Government of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, (C.G.) Pin Code 492 002
2. Chhattisgarh State Co-Operative Marketing Federation Limited (MARKFED) Through Managing Director, 6th Floor, Tower C, Commercial Complex, CBD, Sector 21, Block C, Nava Raipur, Atal Nagar, New Raipur, District Raipur, Chhattisgarh, Pin Code 492 002
3. Collector Mungeli, Collectorate Building, Mungeli, District Mungeli, Chhattisgarh. Pin Code 495 334
4. District MARKFED Officer, Chhattisgarh State Co-Operative Marketing Federation Limited (MARKFED), Mungeli, District Food Office, Collectorate Building, Mungeli, District Mungeli, Chhattisgarh, Pin Code 495 334

-----Respondents

For Petitioner	: Mr. K. Rohan, Advocate
For Resp. No. 1 & 3	: Mr. Jitendra Pali, Dy. Adv. General
For Resp. No. 2 & 4	: Mr. Ashish Surana, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03.07.2020

1. The dispute in the present writ petition substantially is that of non-lifting of paddy by the Respondent No. 2 and 4.
2. According to the counsel for the petitioner, due to the frequent changing of climate and the rains and hailstorms frequent occurring, the paddy which is lying open is getting destroyed and damaged and the

Respondent No. 2 and 4 were supposed to lift it within 72 hours which they have not done and therefore the petitioner approached this Court for a direction to the Respondent No. 2 and 4 for an early lifting of paddy.

3. Today when the matter is taken up for hearing, learned counsel for the Respondent No. 2 and 4 submits that the Federation had permitted the petitioner that they themselves can get the paddy lifted and transported as per **clause 2.7 and 2.8** of the agreement to the nearest storage centre of Respondent No. 2 and 4. According to the learned counsel for the Respondent No. 2 and 4, this liberty the petitioner should have been invoked at the earliest.
4. The contention of the counsel for the petitioner is that the petitioner was issued with a transport order as well as delivery order way back in January and March, 2020 and thereby the Respondent No. 3 is under obligation and bound to lift paddy from the petitioner's point to deliver at the centre. However, in the present case the respondents were not able to lift the paddy. If they were not able to lift the paddy, they are supposed to intimate the petitioner in terms of **clause 2.7 and 2.8** of the agreement, enabling the petitioner to lift the paddy and deliver at the appropriate centre.
5. The counsel appearing for the MARKFED at this juncture submits that he has instructions in this regard and intimation in this regard was given to the petitioners through the nodal officer on **28.02.2020**, (which fact is disputed by the counsel for the petitioner) and thereby the petitioner was at liberty to lift the paddy in terms of **clause 2.7 and 2.8** of the agreement. Be that as it may, given the prevailing facts and circumstances of the case and the prevailing circumstances in the

country during the month of March and April, 2020, this Court finds that the Respondent No. 3 was unable to lift the paddy because of the situation then prevailing. Now, that the things have improved and as per Respondent No. 2 and 4, the nodal officer having given an intimation to the petitioner as per **clause 2.7 and 2.8** of the agreement, the present writ petition can be disposed off in terms of a similar writ petition, which was disposed off on 21.05.2020 passed in WPC No. 1032 of 2020.

6. Given the said submission by the learned counsel for the Respondent No. 2 and 4-Federation, this Court is of the opinion that the present writ petition itself can be disposed off giving the liberty to the petitioners to transport the paddy and deliver it at the nearest storage centre of the Respondent No. 4-Federation. In case of any doubt or confusion so far as the storage centre at which the paddy has to be delivered, the petitioner-society can approach the Respondent No. 4-Federation who shall issue appropriate guidelines or instructions to the petitioners informing them about the destination at which the paddy has to be delivered. In the event, if there is any further dispute regarding the quantity or quality of the paddy etc., all those issues would be resolved in terms of the agreement entered into between the parties and the standards and specifications provided for the same.
7. The writ petition, accordingly stands disposed-off with the aforesaid liberty.

Sd/-
(P. Sam Koshy)
Judge