

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 1452 of 2020**

1. Gramin Sewa Sahkari Samiti Maryadit (Registration No. 518), Tumgaon, District Mahasamund Chhattisgarh Through Mr. Bharat Lal Nirmalkar, Aged About 46 Years, S/o. Late Shri Neelkanth Nirmalkar, Occupation Service, Manager, Gramin Sewa Sahkari Samiti Maryadit (Registration No. 518), Tumgaon, District Mahasamund (Chhattisgarh).
2. Ramkumar Koshariya, S/o Shri Pardeshi Koshariya, Aged About 37 Years Occupation Service, In-Charge, Paddy Purchasing Sub-Center (Up-Kendra), Bhoring, Gramin Sewa Sahkari Samiti Maryadit (Registration No. 518), Tumgaon, District Mahasamund Chhattisgarh, ---- **Petitioners**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Food And Civil Supply, New Mantralaya, Mahanadi Bhawan, Atal Nagar, New Raipur Chhattisgarh,
2. Collector, District Mahasamund Chhattisgarh
3. Managing Director, Apex Bank, Pandri, Raipur, District Raipur Chhattisgarh
4. Chhattisgarh State Cooperative Marketing Federation Limited, Through Managing Director, 6th Floor, Tower-C, Commercial Complex, C B D Sector-21, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh
5. District Marketing Officer (Viparan Adhikari), Mahasamund, District Mahasamund Chhattisgarh
6. District Cooperative Central Bank Limited, Mahasamund, Through The Chief Executive Officer, District Cooperative Central Bank Limited, Mahasamund District Mahasamund Chhattisgarh
7. The Nodal Officer, Zila Sahkari Kendriya Bank Maryadit, Raipur, Nodal Office- Mahasamund, District Mahasamund Chhattisgarh
8. Superintendent Of Police, District Mahasamund Chhattisgarh
9. Station House Officer, Police Station Tumgaon, Tahsil Mahasamund, District Mahasamund Chhattisgarh ---- **Respondents**

For Petitioners	: Mr. A.N. Bhakta, Advocate
For State/Respondent No. 1, 2 & 8	: Mr. Siddharth Dubey, Dy. G.A.
For Respondent No. 4	: Mr. Prafull N. Bharat, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****16/07/2020**

1. The present writ petition has been filed apprehending coercive steps to be taken by the Respondents, pursuant to the impugned notice issued by the Respondent No. 7- Nodal Officer (Annexure P/1) dated 19.06.2020.

2. According to the Counsel for the petitioners' society, on one hand the paddy which has been collected by the petitioners' society is not being timely lifted by the respondents and at the same time, the respondents have initiated steps and proceedings holding the petitioners' society and their officer bearers to be responsible for the shortage of the paddy.
3. According to the Counsel for the petitioner, there have been instances where the respondents have lodged FIR against similarly placed Society and its officer bearers and in all probability the petitioners' society also may be victimized in similar situation.
4. At this juncture, the learned State Counsel so also counsel for the Marketing Federation i.e. the respondents No. 4 & 5 submit that the impugned notice Annexure P/1 does not reflect any coercive steps to be taken against the Petitioners' society. Annexure P/1 is only a document whereby the petitioners' society have been advised by the Nodal Officer i.e. the Respondent No. 7 to ensure that the entire paddy stipulated has to be purchased within the time limit. In case of any shortage, the fulfillment of the shortage should be done at the earliest or else the petitioners' society would be held responsible for the shortage.
5. Counsel for the Petitioners submits that there has been no act or failure on the part of the petitioners' society in discharging their duties, particularly in respect of the purchase of paddy. So far as the shortage of paddy is concerned, the same could be because of natural reasons which are beyond the control of the petitioners and also could be on account of not timely lifting of the paddy by the federation, for which they should not be penalized or prosecuted.

6. It is the further contention of the Petitioners-society that if at all, if the respondents intend to initiate any proceedings against the petitioners, the petitioners may be granted an opportunity to explain so far as the shortage is concerned and so far as the reasons for shortage are concerned and only thereafter the respondents if they still want may proceed in accordance with law.
7. The counsel appearing for the respondent No. 4 further submits that under the agreement which has been entered into between the parties, there is a specific clause which says that in the event if the federation fails to lift the paddy, the petitioners' society can transport the paddy to the concerned procurement center and can raise the bills for transportation of the same. If there is still any dispute left, the same can be resolved by way of arbitration as agreed upon between the parties.
8. Considering the submissions made on either side this Court has no hesitation in holding that in case of there being any shortage of paddy and there is a deliberate act which resulted in the shortage, the person responsible has to be prosecuted or proceeded departmentally in accordance with law. There can be no relaxation or concession granted in this regard.
9. However, it should also be ensured that before proceedings against a person, the authorities concerned should conduct a preliminary verification into the records and reach to the conclusion firstly that of there being a shortage of paddy, secondly, the shortage being caused on account of some deliberate and intentional act on the part of the petitioners-society or any of the officer bearers of society.

10. Since Annexure P/1 issued by the respondent No. 7- the Nodal Officer, let the petitioners' society approach the respondent No. 7 giving their complete information in respect of the purchase of paddy and it is expected that the Nodal Officer thereafter shall verify the records, and only thereafter if required should proceed in accordance with the instruction received from the Higher Authorities in respect of prosecuting either the petitioners' society or any of the officer bearers of the society.

11. With the aforesaid observations, the writ petition stands disposed of.

Sd/-

(P. Sam Koshy)
Judge

Jyotijha