

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1417 of 2020

1. Manoj Kumar Kashyap, S/o Shri Shatruhan Prasad Kashyap, Aged About 38 Years, Occupation - Incharge, Paddy Procurement Center Teliyapuran, R/o - Village - Teliyapuran, Police Station - Jarhagaon, Tahsil - Lormi, District Mungeli Chhattisgarh. Mo. No. - 8085827300

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary Department Of Food, Civil Supplies And Consumer Protection Department, Mahanadi Bhawan, New Mantralaya Raipur, Police Station - Rakhi, District Raipur Chhattisgarh
2. Collector, Mungeli, District : Mungeli, Chhattisgarh
3. General Manager, Chhattisgarh State Co - Operative Marketing Federation Limited, 6th Floor, Tower - C, Commercial Complex C B D, Sector 21, Atal Nagar Nawa Raipur, District : Raipur, Chhattisgarh
4. Assistant Registrar, Co - Operative Societies Mungeli, Police Station, Tahsil And District : Mungeli, Chhattisgarh
5. District Marketing Officer, Chhattisgarh Rajya Sahkari Vipadan Sangh Maryadit Mungeli, Police Station, Tahsil And District : Mungeli, Chhattisgarh
6. Chief Executive Officer, Zila Sahkari Kendriya Bank Maryadit Nehru Chowk Bilaspur, Police Station - Civil Line, Tahsil And District : Bilaspur, Chhattisgarh
7. Nodal Officer, Zila Sahkari Kendriya Bank Maryadit Mungeli, District : Mungeli, Chhattisgarh
8. Sub - Divisional Officer, Pathariya, District : Mungeli, Chhattisgarh

----- Respondents

For Petitioner	:	Mr. Ratnesh K. Agrawal, Advocate.
For State/Resp. 1,2,4 & 8	:	Mr. Jitendra Pali, Dy. Adv. General.
For Resp. No. 3 & 5	:	Mr. Ashish Surana, Advocate
For Resp. No. 6 & 7	:	Mr. Jitendra Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

13.07.2020

1. The challenge in the present writ petition is to a notice issued by the Respondent No. 7 dated 20.06.2020 (Annexure P-1), wherein it was directed that appropriate action shall be taken from the concerned societies in respect of the shortage of paddy collected by them.
2. The contention of the counsel for the petitioner is that the petitioner was only the in-charge of a paddy procurement center and that the petitioner at any of point of time has not committed any deliberate act or any sort of mis-appropriation, which has resulted in a shortage of paddy collected.
3. On the contrary, the counsel for the petitioner submits that there has been a failure on the part of the respondents in not timely lifting the paddy, which was collected at the procurement center and that many a times, even the transporter has failed to lift the paddy within the stipulated period. All these speculations and the climatic conditions has resulted in the damage of the paddy or shortage caused. In addition there is also the climatic conditions which contributes to the shortage.
4. The counsel for the petitioner submits that in-order-to show that action has been initiated, the respondents may without proper verification of facts falsely implicate the petitioner in a criminal case by lodging a FIR, alleging the shortage of paddy. As regards, any deliberate act on the part of the petitioner resulting in the shortage. The counsel for the petitioner referred to a writ petition of similar

nature i.e., WPC No. 1746 of 2015, which was decided on 30.09.2015 wherein it was disposed off with a direction for the petitioner to submit a representation to the authority concerned, who in turn shall subject to verification of facts satisfy himself that, either there was no shortage or that the petitioner was not responsible. At the same time, there could also be a finding of there being a shortage and for which the petitioner is responsible and only thereafter appropriate steps should be taken. The counsel for the petitioner submits that similar direction in the present case would also suffice as the petitioner apprehends lodged of an FIR without any *prima-facie* conducting of preliminary enquiry and the petitioner shall be made the scape-goat.

5. The counsel for the respective respondents submit that the petitioner should not have any apprehension at this juncture, as any such action that would be taken, would be only after a proper investigation or a preliminary enquiry conducted. Moreover, the contention of the counsel for the respondents is that Annexure P-1 itself clearly reflects that the petitioner has been called to tally the accounts/entries in-respect-of the paddy collected and transported by it. According to the counsel for the respondents, this is a sort of verification being conducted and it is only thereafter that a proper action would be initiated.
6. Given the said submissions by the counsel for the petitioner as well as by the counsel for the respective respondents, this Court is of the opinion that the present writ petition also can be disposed off in

terms of the Order passed by this Court in WPC No. 1746 of 2015, decided on 30.09.2015.

7. Accordingly, it is directed that the petitioner shall immediately furnish all necessary documents and records available with him to the concerned authorities, pursuant to Annexure P-1 and the authorities thereafter shall tally the same and thereafter, if any, shortage is found, appropriate preliminary investigation/enquiry is conducted to find out, whether the shortage has been on account of any natural reasons beyond the control of the petitioner or whether there has been a deliberate, intentional in-action on the part of the petitioner or such similar persons intentionally causing/damage or shortage to the paddy. Only then, thereafter on the basis of the enquiry, appropriate steps shall be taken.
8. It is expected that the petitioner shall approach the Respondent No. 7 or the other concerned officers, as the case may be, within a period of fifteen days from the date of receipt of copy of this Order.
9. The writ petition, accordingly stands disposed off.

Sd/-
(P. Sam Koshy)
Judge