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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1602 of 2020

1. Adim Jati Sahkari Samiti Maryadit Manpur, Registered No. 06, Through Director, Bhagwat Kisda, S/o Firturam, Age About 46, R/o Tumdi Kasha, Tehsil Manpur, District Rajnandgaon Chhattisgarh ---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Food, Civil Supplies And Consumer Protection Department, Mahanadi Bhawan, Mantarlaya, Attal Nagar, Nava Raipur, P.S. Rakhi, District Raipur Chhattisgarh,
2. Registrar, Cooperative Societies, Chhattisgarh, Block 3, 2nd And 3rd Floor, Indrawati Bhawan, Atal Nagar, Nava Raipur, District Raipur Chhattisgarh,
3. Collector (Food Section) Rajnandgaon, District Rajnandgaon Chhattisgarh
4. Chhattisgarh State Co-Operative Marketing Federation Ltd., Through Its Managing Director, Raipur, District Raipur Chhattisgarh,
5. Chief Executive Officer, Zila Sahkari Kendriya Bank, Maryadit, Rajnandgaon, P.S. Rajnandgaon, District Rajnandgaon Chhattisgarh
6. Deputy Registrar, Co-Operative Society, Rajnandgaon, District Rajnandgaon Chhattisgarh
7. District Marketing Officer, Rajya Sahkari, Vipadan Sangh, Maryadit, Rajnandgaon, District Rajnandgaon Chhattisgarh

----- Respondents

with

WPC No. 1603 of 2020

1. Seva Sahkari Samiti Salhewara Tahsil Chhuikhadan, District Rajnandgaon, Registered No/ 1384 Through Director Mehendra Kumar, S/o Lakhan Lal Yadav, Aged About 45, R/o Village Rampur , Post Rampur , Tehsil , Chhuikhadan, District Rajnandgaon.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary , Department Of Food, Civil Supplies And Consumer Protection Department , Mahanadi Bhawan, Mantralaya, Attal Nagar Nava Raipur , Police Station Rakhi, District Raipur Chhattisgarh.
2. Registrar Cooperative Societies, Chhattisgarh, Block 3, 2nd And 3rd Floor, Indrawati Bhawan, Atal Nagar, Nava Raipur , District Raipur Chhattisgarh.
3. Collector (Food Section) Rajnandgaon District Rajnandgaon.
4. Chhattisgarh State Co - Operative Marketing Federation Ltd. Through Its Managing Director, Raipur

5. Chief Executive Officer Zila Sahkari Kendriya Bank Maryadit, Rajnandgaon, Police Station Rajnandgaon District Rajnandgaon Chhattisgarh.
6. Deputy Registrar Co Operative Society , Rajnandgaon, District Rajnandgaon Chhattisgarh.
7. District Marketing Officer Rajya Sahkari , Vipadan Sangh, Maryadit, Rajnandgaon, District Rajnandgaon.

---- Respondents

WPC No. 1604 of 2020

1. Adim Jati Seva Sahkari Samiti Maryadit Bortalab Registration No. 1079, Through Director, Dev Karan, S/o Uman Lal Lilhare, Age About 50, R/o Pipar Khar Kala, Post- Bortalab, Tehsil- Dongargarh, District- Rajnandgaon

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Food, Civil Supplies And Consumer Protection Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nava Raipur, P.S. Rakhi, Dist. Raipur, Chhattisgarh
2. Registrar Cooperative Societies, Chhattisgarh, Block 3, 2nd And 3rd Floor, Indrawati Bhawan, Atal Nagar, Nava Raipur, District- Raipur, C.G.
3. Collector (Food Section) Rajnandgaon, Dist. Rajnandgaon,, District : Rajnandgaon, Chhattisgarh
4. Chhattisgarh State Co - Operative Marketing Federation Ltd. Through Its Managing Director, Raipur, District : Raipur, Chhattisgarh
5. Chief Executive Officer Zila Sahkari Kendriya Bank Maryadit, Rajnandgaon, Police Station Rajnandgaon District Rajnandgaon Chhattisgarh.
6. Deputy Registrar Co Operative Society , Rajnandgaon, District Rajnandgaon Chhattisgarh.
7. District Marketing Officer Rajya Sahkari , Vipadan Sangh, Maryadit , Rajnandgaon, District Rajnandgaon.

---- Respondents

WPC No. 1605 of 2020

1. Seva Sahkari Samiti Bamhni Char Bhata, Tehsil, Chhuikhadan, District Rajnandgaon, Registered No. 153 Through Director - Mayaram Sahu, S/o Hariram Sahu, Aged About 42, R/o Morkuttum, Post - Khova, Tehsil, Chhuikhadan, District Rajnandgaon Chhattisgarh.,

---- Petitioner

Versus

1. State Of Chhattisgarh, Through - The Secretary, Department Of Food, Civil Supplies And Consumer Protection Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nava Raipur, Police Station Rakhi, District - Raipur Chhattisgarh.

2. Registrar, Cooperative Societies, Chhattisgarh, Block 3, 2nd And 3rd Floor, Indrawati Bhawan, Atal Nagar, Nava Raipur, District Raipur Chhattisgarh.
3. Collector, (Food Section) Rajnandgaon, District Rajnandgaon, Chhattisgarh
4. Chhattisgarh State Co - Operative Marketing Federation Ltd., Through Its Managing Director, Raipur, District Raipur Chhattisgarh
5. Chief Executive Officer, Zila Sahkari, Kendriya Bank, Maryadit, Rajnandgaon, Police Station Rajnandgaon, District Rajnandgaon Chhattisgarh
6. Deputy Registrar, Co - Operative Society, Rajnandgaon, District Rajnandgaon Chhattisgarh.
7. District Marketing Officer, Rajya Sahkari, Vipadan Sangh, Maryadit, Rajnandgaon, District Rajnandgaon Chhattisgarh.

----Respondents.

WPC No. 1606 of 2020

1. Seva Sahkari Samiti Salhetola Tehsil- Chhuikhadan, District Rajnandgaon, Through Director- Alok Mishra, S/o Rajkumar Mishra, Age About 50, R/o Village Belargondi, Post Belargondi, Tehsil Chhuikhadan

---- Petitioner

Versus

1. State Of Chhattisgarh Through- The Secretary, Department Of Food, Civil Supplies And Consumer Protection Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nava Raipur, P.S. Rakhi, District Raipur, Chhattisgarh
2. Registrar Cooperative Societies, Chhattisgarh, Block 3, 2nd And 3rd Floor, Indrawati Bhawan, Atal Nagar, Nava Raipur, District Raipur, Chhattisgarh
3. Collector (Food Section) Rajnandgaon, District Rajnandgaon.
4. Chhattisgarh State Co-Operative Marketing Federation Ltd. Through Its Managing Director, Raipur.
5. Chief Executive Officer Zila Sahkari Kendriya Bank, Maryadit, Rajnandgaon, P.S. Rajnandgaon.
6. Deputy Registrar Cooperative Society, Rajnandgaon
7. District Marketing Officer Rajya Sahkari, Vipadan Sangh, Maryadit, Rajnandgaon, District Rajnandgaon.

---- Respondent

WPC No. 1607 of 2020

1. Adim Jati Seva Sahkari Samiti Maryadit Mohla Registered No. 15, Through Director Nathuram Ramteke, S/o Mehetter Ramteke, Aged About 47, R/o Village Banjari Post Wasadi P. S. Ambagar Chowki, Tehsil Mohla District Rajnandgaon Chhattisgarh,

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Food, Civil Supplies And Consumer Protection Department, Mahanadi Bhawan, Mantralaya, Attal Nagar Nava Raipur , Police Station Rakhi, District Raipur Chhattisgarh.
2. Registrar Cooperative Societies, Chhattisgarh, Block 3, 2nd And 3rd Floor, Indrawati Bhawan, Atal Nagar, Nava Raipur , District Raipur Chhattisgarh
3. Collector (Food Section) Rajnandgaon District Rajnandgaon
4. Chhattisgarh State Co - Operative Marketing Federation Ltd. Through Its Managing Director, Raipur, District : Raipur, Chhattisgarh
5. Chief Executive Officer Zila Sahkari Kendriya Bank Maryadit, Rajnandgaon, Police Station Rajnandgaon District Rajnandgaon Chhattisgarh.,
6. Deputy Registrar Co Operative Society , Rajnandgaon, District Rajnandgaon Chhattisgarh.,
7. District Marketing Officer Rajya Sahkari , Vipadan Sangh, Maryadit, Rajnandgaon, District Rajnandgaon

----- Respondents

For Petitioner	: Mr. Anuroop Panda, Advocate.
For State/Resp. 1,2,3 & 6	: Smt. Sunita Jain, G.A., Mr. Siddharth Dubey, Dy. G.A. and Mr. Sudeep Verma, Dy. G.A.
For Resp. No. 4 & 7	: Mr. Ashish Surana, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

20.07.2020

1. The petitioners in the present writ petitions have challenged the notice Annexure P-1 dated 29.06.2020 issued by the Respondent No. 3-Collector towards the Respondent No. 6 for taking appropriate recovery proceedings and also for taking appropriate criminal action against those erring officials, who are responsible for the shortage caused in the purchase of paddy. The petitioners have also in turn assailed the consequent order Annexure P-2 dated 08.07.2020 issued by the Respondent No. 6 to the Branch Manager of the Respondent No. 5 asking for getting the actual verification done in-

respect-of the purchase of paddy and on finding shortage of paddy, appropriate FIR be lodged and recovery proceedings be also initiated against the erring officials.

2. The contention of the counsel for the petitioners is that the petitioners as such have not in any manner committed any fault/fraud in the process of purchase of paddy. According to the counsel for the petitioners, there has been no deliberate, intentional act on the part of the petitioners, causing shortage of paddy nor is there any fraud or misappropriation committed by the petitioners, which resulted in shortage. The counsel for the petitioners also submits that, the petitioners in-fact had timely purchased the paddy and had stocked it but there has been some lapse on the part of the respondents in not lifting the said paddy promptly and many a times, even the transporter who were engaged by the Federation also failed to timely lift the paddy within the stipulated period. In addition to these, there has also been extreme weather conditions which also has attributed to the damage to the paddy, as also for the shortage caused and for all these reasons, the petitioners cannot be held responsible nor should the petitioners be subjected to prosecution or any disciplinary proceedings.
3. The counsel for the petitioners submits that there is a great apprehension that the respondents may straightaway lodge an FIR, alleging shortage of paddy. He further makes a statement as of now, no FIR has been lodged against any of the petitioners till today. The request by the counsel for the petitioners that let respondents

conduct a physical verification/ preliminary enquiry in-respect-of the purchase of paddy and only after verification of the records may find out, firstly whether there has been any shortage of paddy caused and secondly, whether there has been any intentional or deliberate act on the part of either the society or any of the office bearers of each of the society in the shortage of paddy being caused and only then should the appropriate proceedings be drawn by them. The counsel for the petitioners relied upon an Order passed by this Court in WPC No. 1417 of 2020 in this regard, where this Court disposed off the writ petition permitting the respondents to initiate appropriate proceedings only after physical verification/preliminary enquiry is conducted.

4. The counsel appearing for the respective respondents submit that the petitioner should not have any apprehension at this juncture, as any such action that would be taken shall 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 petitioners have been called for tallying 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. In addition, the counsel appearing for the Marketing Federation submits that as per tri-partite agreement entered into between the society, the Marketing Federation and the respondent-Bank there is clause 2.6, which

envisages that in the event, if the Federation fails to lift the paddy within a stipulated period, the respondent's society can transport the paddy to the respective storage center and can claim transportation charges from the Federation for the same. It is also submitted by the counsel appearing for the Federation that in addition, there is also a clause in the agreement, which says that in the event of any dispute between the parties, the same has to be resolved by resorting to arbitration.

5. Given the said submissions made by the counsel for the petitioners as well as by the counsel for the respective respondents, this Court is of the opinion that the main grievance or the primary apprehension of the petitioners is that the respondents may take coercive steps or initiate criminal proceedings against the petitioners without proper verification of the factual matrix of the case as is available in the records. However, when we look at Annexure P-2, the letter issued by the Respondent No. 6 to the Respondent No. 5, it appears that the same has been sent pursuant to the letter issued by the Collector on 29.06.2020 (Annexure P-1) and which is an intimation to the Respondent No. 5-Bank and the employees associated with each of the societies for physical verification of the records. Annexure P-2 clearly suggests that it is only after the actual physical verification done, appropriate action would be taken against the erring officials who are responsible for the shortage and that it is not an order passed in general. It would be only applicable upon those erring

officials who have committed fraud or a default deliberately with intention for causing damage or shortage of the paddy.

6. In view of the contents of Annexure P-2, this Court is of the opinion that the present writ petitions also can be disposed off permitting the petitioners to furnish all necessary information and details of the records pertaining to the purchase of paddy by the respective societies to which the petitioners were associated, to the Bank, or to the concerned officers under the respondents. The petitioners are also expected to render full cooperation to the respondent authorities in the course of physical verification ordered and it is expected that only after a thorough physical verification of the records alone would the respondent authorities take appropriate action against only those officials who have been found or held responsible for the causing of the shortage, if any.
7. Needless to mention that in the event, if it is found that the shortage of paddy was on account of natural reasons, the respondents will take appropriate steps in-accordance-with the agreement entered into between the parties. 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 considering the standards and specifications provided for the same.
8. The writ petitions, accordingly stand disposed off.

**Sd/-
(P. Sam Koshy)
Judge**