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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1757 of 2020

1. Aadim Jaati Sewa Sahkari Samiti Maryadit Khadgaon (Registration No. 180) (Through Authorized Representative Shri Kripa Ram Rathia), District- Raigarh, Chhattisgarh
2. Aadim Jaati Sewa Sahkari Samiti Maryadit- Dharamjaygadh (Through Authorized Representative Shri Buddha Dev Gupta) District- Raigarh, Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh (Through Secretary, Food, Civil Supplies And Consumer Protection Department) Mantralaya Mahanadi Bhavan, Atal Nagar, Raipur, Chhattisgarh
2. Chhattisgarh Rajya Sahkari Vipnan Sangh (Through Managing Director) 6th Floor, Tower 'c', Commercial Complex, Cbd, Sector-21, Block 'c', Nava Raipur Atal Nagar, Raipur, Chhattisgarh
3. District Mark-Fed Officer Chhattisgarh Rajya Sahkari Vipnan Sangh District- Raigarh, Chhattisgarh
4. Collector District- Raigarh, Chhattisgarh
5. Deputy Registrar Co-Operative Societies, District- Raigarh, Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Pankaj Singh, Advocate
For State	:	Mr. Siddharth Dubey, Dy. G.A.
For Respondent Nos.2 & 3	:	Mr. Harshwardhan Parganiha, Advocate under instructions of Mr. S.C. Verma, Advocate

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

31/08/2020

1. The present writ petition has been filed primarily seeking for a relief of a direction against the respondents restraining themselves from registering of F.I.Rs. against the petitioners-societies or its officers without any factual ascertainment being done so far as whether any offence has been committed or not.

2. The petitioners seem to have been apprehending registration of an F.I.R. based upon the correspondence (Annexure P/1) dated 15.06.2020 issued by the respondent No.2, whereby the respondent No.2- the Managing Director of the Federation has issued a correspondence to all the Collectors of each Districts in respect of certain allegations of shortfall in the paddy in the course of the lifting of the same and in a given case after verification, if necessary, the Managing Director had also advised the Collectors to get F.I.Rs. registered against the erring officials.

3. Before proceeding further in the matter, it would be relevant to refer to the contents of Annexure P/1 itself:

> "विषयांतर्गत लेख है कि धान उपार्जन समितियों में संलग्न पत्रक अनुसार धान शेष है। साथ ही संलग्न 'दो' पर उपलब्ध सारणी अनुसार 702 समितियों में धान मिलान का कार्य भी शेष है। उल्लेखनीय है कि समितियों में शेष धान के निराकरण हेतु डी ओ एवं टी ओ जारी किया गया है परन्तु कई समितियों में धान की किस्म खराब होने के कारण तथा कई स्थानों पर वास्तविकता में धान उपलब्ध नहीं होने के कारण धान का उठाव सम्भव नहीं हो पा रहा है।
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> अनुरोध है कि आपके स्तर पर समीक्षा कर धान के उठाव में गति लाने हेतु संबंधितों को निर्देश करें, साथ ही जिन समितियों में अत्यधिक कमी आ रही है, उनमें वस्तुस्थिति की जांच कर आवश्यक हो तो एफ.आई.आर. दर्ज कराने अथवा अन्य वैधानिक कार्यवाही किये जाने पर विचार करने का कष्ट करें, ताकि समितियों में शेष धान का अविलम्ब निराकरण सम्भव हो सके।"

4. Plain reading of the latter part of the order Annexure P/1 dated 15.06.2020 it is explicit that the order of the Managing Director was very clear that in the course of scrutiny if it is found that there is a huge shortfall of the stock in any of the societies, factual verification of the same be conducted, only thereafter if required, an F.I.R. also can be registered under such circumstances or take other legal remedies that are available.

5. The petitioners apprehend that based upon the said correspondence, there is a possibility of registering of an F.I.R. against the officials of the petitioners-societies and that according to the petitioners, they have not violated any of the conditions of the agreement entered into between the

parties, nor is there any deliberate act on the part of the petitioners, if the stock has got reduced for some climatic conditions beyond the control of the petitioners. The petitioners under such circumstances would be put to unnecessary harassment of facing a criminal case.

6. The counsel appearing for the State as well as the counsel appearing for the Marketing Federation submit that once when the order (Annexure P/1) dated 15.06.2020 itself specifically enumerates that any action of registration of an F.I.R. has to be only after inquiry or a factual verification is conducted, the petitioners need not have any apprehension as of now, the petition thus is too premature at this stage.

7. Given the said facts and also taking into consideration the nature of the grievance or apprehension that the petitioners have in their mind, this Court does not intend to keep the writ petition pending rather is inclined to dispose of the writ petition at the admission stage itself with a direction to the respondents that, it is expected of the respondents that any action to be initiated against the petitioners would be subject to strict adherence of the requirement as stipulated in Annexure P/1 itself, which clearly says it could be done only after a fact finding verification. After the respondents conduct a fact finding verification it is expected that the authorities would be taking a decision purely in accordance with the agreement, regulations and the guidelines governing the field.

8. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved