

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 1874 of 2020**

1. Aadim Jati Sewa Sehkari Samiti Maryadit Ranipartewa Registration No. 1513, Through Its President Pannalal Dhruw, S/o Yaadram Dhruw, Aged About 45 Years, Resident Of Gram Dwartara, Tehsil Chura, District Gariyaband Chhattisgarh.
2. Aadim Jati Sewa Sehkari Samiti Maryadit Dulla Registration No. 459, Through Its President Jagtaram Dhruw, S/o Jethram Dhruw, Aged About 50 Years, Resident Of Gram Tonhidabri, Tehsil Chura, District Gariyaband Chhattisgarh.
3. Aadim Jati Sewa Sehkari Samiti Maryadit Rasela Registration No. 1769, Through Its President Jayram Kanwar, S/o Prem Kanwar, Aged About 50 Years, Resident Of Gram Mudipaani, Tehsil Chura, District Gariyaband Chhattisgarh.
4. Aadim Jati Sewa Sehkari Samiti Maryadit Charouda Registration No. 1754, Through Its President Ramcharan Nagesh, S/o Bisauram Nagesh, Aged About 64 Years, Resident Of Gram Charouda, Tehsil Chura, District Gariyaband Chhattisgarh.
5. Aadim Jati Sewa Sehkari Samiti Maryadit Koundkera Registration No. 877, Through Its President Yashwant Sahu, S/o Udayram Sahu, Aged About 50 Years, Resident Of Gram Rehina, Tehsil Rajim, District Gariyaband Chhattisgarh.
6. Aadim Jati Sewa Sehkari Samiti Maryadit Paatsivni Registration No. 1520, Through Its President Bharat Dhruw, S/o Umed Singh Dhruw Aged About 50 Years, Resident Of Gram Amlor, Tehsil Chura District Gariyaband Chhattisgarh.
7. Aadim Jati Sewa Sehkari Samiti Maryadit Chura Registration No. 1710, Through Its President Budaan Singh Dhruw, S/o Amoliram Dhruw, Aged About 50 Years, Resident Of Gram Tengnabasa, Tehsil Chura, District Gariyabandh Chhattisgarh.
8. Aadim Jaati Sewa Sehkari Samiti Maryadit Khadma Registration No. 1183, Through Its President Dujlal Thakur S/o Fuljan Thakur Aged About 50 Years, Resident Of Gram Piperchedi, Tehsil Chura, District Gariyabandh Chhattisgarh.
9. Aadim Jaati Sewa Sehkari Samiti Maryadit Sivni Registration No. 458, Through Its President Tihar Singh Thakur S/o Baliram Thakur Aged About 50 Years, Resident Of Gram Vijaypur, Tehsil Chura, District Gariyabandh Chhattisgarh.
10. Aadim Jaati Sewa Sehkari Samiti Maryadit Aamdi Registration No. 462, Through Its President Shankarlal Dhruw S/o Fagnuram Dhruw Aged About 50 Years, Resident Of Gram Darripara, Tehsil And District Gariyabandh Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary, Co-Operative Department, Mahanadi Bhawan, Capital Complex, Atal Nagar New Raipur Chhattisgarh.
2. Managing Director Marketing Federation, Chhattisgarh Raipur, District Raipur Chhattisgarh.
3. The Collector District Gariyabandh, District Gariyabandh Chhattisgarh.
4. District Co-Operative Marketing Federation Officer Gariyabandh, District Gariyabandh Chhattisgarh.
5. Assistant Registrar Co-Operative Society, Gariyabandh, District Gariyabandh Chhattisgarh.

---- Respondents

For Petitioners	:	Mr. Anjinesh Shukla, Advocate
For State	:	Mr. Raghvendra Verma, G.A.
For Respondents No.2 to 4	:	Mr. Ashish Surana, Advocate

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

03/09/2020

1. The petitioners in the present writ petition are challenging to the notice dated 03.07.2020 passed by the respondent No.5 for taking appropriate recovery proceedings as also taking appropriate action under the Service Rules governing the field.
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 for the respondents submits that vide the impugned order of the Assistant Registrar, the petitioners have been called upon to make good the loss or the deficit purchase of paddy made by the respective societies. 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. It is the further contention of the counsel for the respondents that subject to the petitioners providing necessary details and information as also explanations, if any, the same shall be duly taken into consideration, only then appropriate order would be passed.
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. Considering the contents of Annexure P/1 dated 03.07.2020 what clearly reflects is that the Assistant Registrar has instructed the concerned society to make good the loss within a period of 5 days

and thereafter the records would be verified and appropriate action against the erring officials will be taken, both in respect of recovery as also in respect of disciplinary action, if any. This itself indicates that the matter is still open and subject to verification of facts and records.

6. In the given factual backdrop the present writ petition stands disposed of directing the petitioners to submit their requisite application and the details to the concerned society and also if required to the Assistant Registrar, who in turn shall duly verify the explanation as also the records submitted by the petitioners and thereafter appropriate steps in accordance with agreement entered into between the parties shall be taken. It is further directed that in the event of any further dispute, standing un-redressed, so far as the quantity and quality of paddy etc. persists, those issues shall be resolved purely in terms of the agreement entered into between the parties taking into consideration the standard and the specification provided in respect of the quality and quantity is concerned.
7. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved