

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 1678 of 2020**

1. Dilip Jaiswal S/o Shri Ranjan Jaiswal Aged About 50 Years Occupation- Incharge Paddy Procurement Center Dindouri, R/o- Village And Post- Akhrar, Police Station And Tahsil- Lormi, District Mungeli Chhattisgarh Mo. No. 9752378944. **---- 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 (Food) Mungeli, District Mungli Chhattisgarh
3. Assistant Registrar Co-Operative Societies Mungeli, Police Station, Tahsil And District Mungeli Chhattisgarh
4. Chief Executive Officer Zila Sahkari Kendriya Bank Maryadit Nehru Chowk Bilaspur, Police Station- Civil Line, Tahsil And District Bilaspur Chhattisgarh,
5. Branch Manager Zila Sahkari Kendriya Bank Maryadit Lormi, District Mungeli Chhattisgarh
6. District Marketing Officer Mungeli, District Mungeli Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Ratnesh Kumar Agrawal, Advocate
For State/Resp. No. 1, 2 & 3	:	Mr. Siddharth Dubey, Dy. G.A.
For Resp. No. 4 & 5	:	Mr. Jitendra Shrivastava, Advocate
For Resp. No. 6.	:	Mr. Prafull N. Bharat, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****04/08/2020**

1. The challenge in the present writ petition is to the order (Annexure P/1) dated 22.07.2020 issued by the respondent No. 2- Collector and the subsequent order issued by the respondent No. 3 – Assistant Registrar on 28.07.2020 directing the respondent No. 5- Bank to take immediate action on the shortage of paddy and to lodge an FIR immediately.
2. It is pertinent to mention at this juncture that the petitioner along with other similarly placed persons had filed a Writ Petition apprehending such action on the part of the respondents. The lead case in bunch of Writ Petitions i.e. WP(C) No. 1397 of 2020 and the petitioner's writ petition in the said bunch of writ petitions was WP(C) No.1563 of 2020.

The bunch of writ petitions was heard and disposed of on 17.07.2020 whereby this Court had directed the respondents to take appropriate action so far as initiating criminal prosecution as also for initiating recovery proceedings to be done only after an enquiry is conducted by the respondents. In the enquiry, if it is found that some individual persons were responsible for the shortage or the damage caused and only then appropriate action be initiated only against the erring officials

3. However, before the petitioner or the respondents could obtain the certified copy of the order dated 17.07.2020 and serve it to the respondent No. 2, the impugned order dated 22.07.2020 seems to have been passed by the respondent No. 2 directing the Assistant Registrar Co-operative Society to lodge an FIR and intimate the same to the officer of the Collector.
4. Thereafter the petitioner is said to have submitted his response and also the relevant records/documents to the concerned respondents on 24.07.2020. However without considering the said documents and submissions made by the petitioner, the respondent No. 3 in turn has issued the order dated 28.07.2020 to the respondent No. 5 Bank for registering an FIR. It appears that the impugned order Annexure P/1 seems to have been passed by the respondent No. 2 ignorant of the order passed by this Court on 17.07.2020 in the bunch of writ petitions decided along with WP(C) No. 1397 of 2020.
5. It also reveals from the pleadings that the order dated 17.07.2020 could not be brought to the notice of the respondent No. 2 before the impugned orders Annexure P/1 dated 22.07.2020 was passed and the impugned order Annexure P/2 dated 28.07.2020 seems to have been passed only in compliance to the order passed by the collector on 22.07.2020

6. Given the aforesaid admitted factual matrix of the case, this Court is of the opinion that it is the order dated 17.07.2020 passed in WP(C) No. 1397 of 2020 and other connected matters holds good, ends of justice would meet, if the effect and operation of the impugned orders dated 22.07.2020 (Annexure P/1) and 28.07.2020 (Annexure P/2) are deferred as of now. The respondents are permitted to conduct an enquiry in-terms of directions given by this Court on 17.07.2020 in the bunch of writ petitions and only on the basis of findings of the enquiry, appropriate action be initiated that too if required in-terms of the findings.
7. Accordingly, the writ petition is disposed of at this juncture. It is ordered that the respondents shall not give effect to the orders (Annexure P/1) dated 22.07.2020 and (Annexure P/2) dated 28.07.2020 till an enquiry is conducted by the respondents in respect of the shortage and damage of paddy and only if in the enquiry, it is found that either the petitioner or any such similar persons are individually responsible for the shortage or damage of the paddy as the case may be.
8. It is made clear that this order would be applicable only in the event if an FIR till date has not been lodged by the respondents i.e. on 04.08.2020. If an FIR already stands lodged, this order would loose its efficacy and the petitioner would have an appropriate remedy for challenging the subsequent development in accordance with law.
9. With the aforesaid observations/directions, the writ petition accordingly stands disposed of.

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Sd/-

(P. Sam Koshy)
Judge