

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1796 of 2020

Kirtan Ram Sahu S/o Shri Shyam Lal Aged About 50 Years Occupation In-Charge Paddy Procurement Center- Mohgaon, Sewa Sahakari Samiti Maryadit, Bidora (Registration No.- 1400) Kabirdham, District Kabirdham Chhattisgarh, District : Kawardha (Kabirdham), Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Food Civil Supplies And Consumer Protection, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Collector, Kabirdham, District Kabirdham Chhattisgarh, District : Kawardha (Kabirdham), Chhattisgarh
3. General Manager, Chhattisgarh State Co-Operative Marketing Federation Limited, 6th Floor, Tower- C, Commercial Complex C B D Sector 21, Atal Nagar, Naya Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
4. Deputy Registrar, Co-Operative Societies, Kabirdham, District Kabirdham Chhattisgarh, District : Kawardha (Kabirdham), Chhattisgarh
5. Branch Manager, District Co-Operative Central Bank Maryadit, Silhati, Kabirdham, District Kabirdham Chhattisgarh, District : Kawardha (Kabirdham), Chhattisgarh
6. District Marketing Officer, Chhattisgarh Rajya Sahkari Vipadan Sangh Maryadit, Kabirdham, District Kabirdham Chhattisgarh, District : Kawardha (Kabirdham), Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Vinay Pandey, Advocate.
For State	:	Mr. Mateen Siddiqui, Dy. A.G., Mr. Sudeep Verma, Dy. G.A. & Mr. Raghvendra Verma, GA
For Resp. No. 3 & 6	:	Mr. Ashish Surana, Advocate

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

20.08.2020

1. The challenge in the present writ petition is to the memo dated 29.07.2020 issued from the Bank to the petitioner for making good shortfall of paddy and shortage of paddy seeking his explanation so far as shortfall in the purchase of paddy on the particular procurement center is concerned. The reason for the petitioner to approach the Court is the apprehension of the appropriate recovery proceedings that respondents may initiate or the initiating criminal action against the petitioner without proper verification of the records in respect of the whether the petitioner is really at fault or not.
2. Counsel for the petitioner submits that he has not in any manner committed any fault or fraud in the process of purchase of paddy nor is there any deliberate act on his part on the shortfall of paddy which is said to be detected by the respondents. Counsel for the petitioner submits that the reason for the shortfall which is said to be detected could be because of the non lifting of the paddy promptly by the respondents and paddy also getting exposed to extreme climatic conditions resulting in loss of weight etc. Counsel for the petitioner further submits that in between on account of national lockdown also the paddy which was lying in the fields must have lost its weight to some extent. All these aspect need to be verified and inquired by the authorities before taking any action against the petitioner. Counsel for the petitioner further submits that there is a possible

threat/apprehension of the respondents initiating recovery proceedings against the petitioner without properly verifying the details of the paddy purchase and role played by the petitioner in the event of any shortfall. Further contention of the petitioner is that there is also a possibility of respondents registering an FIR against the petitioner for the alleged shortage of paddy. He submits that as of now neither has there an order of recovery passed nor a FIR is registered till date. The prayer made by the counsel for the petitioner is that let respondent conduct a physical verification or preliminary enquiry in respect of paddy at the petitioner's procurement center, where the petitioner is the in charge, get verified from the records and thereafter authorities may reach to the conclusion first as to whether there has been any intentional or deliberate act on the part of the petitioner which resulted in the shortage of paddy or shortfall in the purchase of paddy. Only then, appropriate action should be initiated against the petitioner or the other erring officers.

3. This Court in the past also have disposed of many writ petitions in similar terms. Counsel for the petitioner referred to a bunch of writ petitions leading of which being WPC 1486/2020 and other analogues matters disposed of by this Court on 17.07.2020 which in itself was disposed of in terms of the earlier writ petition disposed of by this Court in WPC 1417/2020.
4. The counsel appearing for the 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. According to the counsel for the respondents in the impugned notice Annexure P-1 the petitioner has

simply been called upon to give his explanation so far as shortage of shortfall in the paddy or paddy purchase. The petitioner need not have any apprehension as of now. It is only in the event if petitioner would not be able to provide satisfactory response only then action would be proposed.

5. 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.
6. 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.
7. In view of the order passed by this Court on 17.07.2020 in the Bunch of writ petitions in WPC 1486/2020 and other writ petitions of similar nature and also the order passed by this Court in WPC 1417/2020, the present writ petitions also can be disposed of permitting the

petitioner 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 that too against only those officials who have been found or held responsible for the causing of the shortage, if any.

8. 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.
9. The writ petition, accordingly stand disposed of.

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

Rohit