

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2130 of 2020

Ramswaroop Sahu S/o Udasiram Sahu, Aged About 36 Years R/o Village Lalakapa, P.O. Bairwar, Tahsil And District Mungeli Chhattisgarh, District : Mungeli, Chhattisgarh

---- Petitioner

Versus

- 1.** The State Of Chhattisgarh Through Secretary Department Of Food, Civil Supplies And Consumer Protection Department, Mahanadi Bhawan, New Mantralay Raipur, Police Station Rakhi, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
- 2.** Collector, Mungeli, District Mungeli Chhattisgarh, District : Mungeli, Chhattisgarh
- 3.** General Manager, Chhattisgarh State Co-Operative Marketing Federation Limited, 6th Floor, Tower-C, Commercial Complex C B D, Sector 21, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
- 4.** Assistant Registrar, Co-Operative Societies Mungeli, Police Station, Tahsil And District Mungeli Chhattisgarh, District : Mungeli, Chhattisgarh
- 5.** District Marketing Officer, Chhattisgarh Rajya Sahkari Vipdan Sangh Maryadit Mungeli, Police Station, Tahsil And District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh
- 6.** Chief Executive Officer, Zila Sahkari Kendriya Bank Maryadit Nehru Chowk Bilaspur, Police Station, Tahsil And District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
- 7.** Nodal Officer, Zila Sahkari Kendriya Bank Maryadit Mungeli, District Mungeli Chhattisgarh, District : Mungeli, Chhattisgarh
- 8.** Sub Divisional Officer, Pathariya, District Mungeli Chhattisgarh, District : Mungeli, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Animesh Verma, Advocate.
For State/Resp. 1,2,4 & 8	:	Mr. Sudeep Verma, Dy. G.A.
For Resp. No. 3 & 5	:	Mr. Ashish Surana, Advocate
For Resp. No.6 & 7	:	Mr. Jitendra Shrivastava, Advocate

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

22.09.2020

1. The challenge in the present writ petition is to the order passed by the Collector Mungeli dated 18.01.2020 (Annexure P-1) whereby the Collector has ordered for constituting a committee for conducting the enquiry in respect of purchase of paddy by Nirjaam Society located at Village Lalkapa, Tahsil & District Mungeli.
2. Contention of the petitioner primarily is that he is a low paid employee working as a Data Entry Operator and role played by the petitioner is to only feed the datas provided by the other members of the said society. According to the petitioner he has no decisive role in the purchase or stocking of paddy and therefore for any shortage of paddy or for any other irregularity or shortage of paddy, the petitioner cannot be held responsible. At the same time the contention of the petitioner is that shortage of paddy can arise because of various factors primarily because of the weather conditions also and for which also the petitioner or similarly placed persons cannot be held responsible for the said shortage or damage or shortfall of the paddy.

3. The contention of the counsel for the petitioner is that the petitioner as such has not in any manner committed any fault/fraud in the process of purchase of paddy. According to the counsel for the petitioner, there has been no deliberate, intentional act on the part of the petitioner, causing shortage of paddy nor is there any fraud or misappropriation committed by the petitioner, which resulted in shortage. The counsel for the petitioner also submits that, the petitioner 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 petitioner cannot be held responsible nor should the petitioners be subjected to prosecution or any disciplinary proceedings.
4. The counsel for the petitioner 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 petitioner till today. The request by the counsel for the petitioner 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 petitioner 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.

5. 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 an enquiry has been ordered 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.

6. Given the said submissions made by the counsel for the petitioner 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 petitioner is that the respondents may take coercive steps or initiate criminal proceedings against the petitioner without proper verification of the factual matrix of the case as is available in the records. 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.
7. In view of the contents of Annexure P-1, this Court is of the opinion that the present writ petition 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 petitioner was associated, to the Bank, or to the concerned officers under the respondents. The petitioner is 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.

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 stands disposed of.

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

Rohit