

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 2064 of 2020**

Shivcharan Manikpuri S/o Jethu Das Manikpuri Aged About 33 Years
Occupation- Incharge Of Paddy Procurement Center Nawagaon
(Ghutera), R/o Village Turwani, Post Devrahat, Police Station And Tahsil
Lormi, District Mungeli, Chhattisgarh.

---- 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 Mungeli, District Mungeli, Chhattisgarh.
3. General Manager Chhattisgarh State Co-Operative Marketing Federation Limited, 6th Floor, Tower- C, Commercial Complex CBD, Sector-21, Atal Nagar Nawa Raipur, District Raipur, Chhattisgarh.
4. Assistant Registrar Co-Operative Societies Mungeli, Police Station, Tahsil And District Mungeli, Chhattisgarh.
5. District Marketing Officer Chhattisgarh Rajya Sahkari Vipadan Sangh Maryadit Mungeli, Police Station Tahsil And District Mungeli, Chhattisgarh.
6. Chief Executive Officer Zila Sahkari Kendriya Bank Maryadit Nehru Chowk Bilaspur, Police Station Civil Line, Tahsil And District Bilaspur, Chhattisgarh.
7. Nodal Officer Kendriya Bank Maryadit Mungeli, District Mungeli, Chhattisgarh.

---- Respondents**AND****WPC No. 2073 of 2020**

Ashok Kumar Sahu S/o Shri Lahruram Sahu Aged About 29 Years
Occupation Incharge, Paddy Procurement Center Bhalukhondra, R/o
Village Amlidih, Post Kanteli, Police Station And Tahsil Lormi, District
Mungeli Chhattisgarh. Mobile No. 7067972113.

---- 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 Mungeli, District Mungeli Chhattisgarh.
3. General Manager Chhattisgarh State Co Operative Marketing Federation Limited , 6th Floor , Tower C, Commercial Complex CBD , Sector 21, Atal Nagar Nawa Raipur , District Raipur Chhattisgarh.
4. Assistant Registrar Co Operative Societies Mungeli , Police Station , Tahsil And District Mungeli Chhattisgarh.
5. District Marketing Officer Chhattisgarh Rajya Sahkari Vipadan Sangh Maryadit Mungeli , Police Station , Tahsil And District Mungeli Chhattisgarh.
6. Chief Executive Officer Zila Sahkari Kendriya Bank Maryadit Nehru Chowk Bilaspur , Police Station Civil Line, Tahsil And District Bilaspur Chhattisgarh.
7. Nodal Officer Zila Sahkari Kendriya Bank Maryadit Mungeli, District Mungeli Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Ratnesh Kumar Agrawal, Advocate
For State	:	Mr. Raghvendra Verma, G.A.
For Respondents No. 3 & 5	:	Mr. Ashish Surana, Advocate
For Respondents No. 6 & 7	:	Mr. Jitendra Shrivastava, Advocate

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

24/09/2020

1. The challenge in both the writ petitions is to a notice issued by the Respondent No. 7 dated 20.06.2020 (Annexure P-1), wherein it was directed that appropriate action shall be taken from the concerned societies in respect of the shortage of paddy collected by them.
2. The contention of the counsel for the petitioners is that the petitioners were only the in-charge of a paddy procurement center and that the petitioners at any of point of time have not committed

any deliberate act or any sort of mis-appropriation, which has resulted in a shortage of paddy collected.

3. On the contrary, the counsel for the petitioners submits that there has been a failure on the part of the respondents in not timely lifting the paddy, which was collected at the procurement center and that many a times, even the transporter has failed to lift the paddy within the stipulated period. All these speculations and the climatic conditions has resulted in the damage of the paddy or shortage caused. In addition there is also the climatic conditions which contributes to the shortage.
4. The counsel for the petitioners submits that in-order-to show that action has been initiated, the respondents may without proper verification of facts falsely implicate the petitioners in a criminal case making them a scapegoat, alleging the shortage of paddy.
5. As regards, any deliberate act on the part of the petitioners resulting in the shortage the counsel for the petitioners referred to a writ petition of similar nature i.e., WPC No. 1746 of 2015, which was decided on 30.09.2015 wherein it was disposed off with a direction for the petitioners to submit a representation to the authority concerned, who in turn shall subject to verification of facts satisfy himself that, either there was no shortage or that the petitioners were not responsible. At the same time, there could also be a finding of there being a shortage and for which the petitioners are responsible and only thereafter appropriate steps should be taken. The counsel for the petitioners submits that similar direction in the present case would also suffice as the petitioners apprehend

further coercive steps like recovery being made without any conducting of preliminary enquiry the petitioners shall be made the scape-goat.

6. The counsel for the respective respondents submit that the petitioners should not have any apprehension at this juncture, as any further action that would be taken, would be only after proper verification/investigation or a preliminary enquiry conducted. Moreover, the contention of the counsel for the respondents is that Annexure P-1 itself clearly reflects that the petitioners have been called to tally the accounts/entries in-respect-of the paddy collected and transported by it. According to the counsel for the respondents, this itself is a sort of verification being conducted and it is only thereafter that any action would be initiated.
7. The counsel appearing for the MARKFED at this juncture submits that the action under challenge is the order issued by the nodal officer on 20.06.2020, and not by the Federation. He submits that under the agreement the petitioners were also at liberty to lift the paddy in terms of clause 2.6 of the agreement in the event if the MARKFED fails to lift the paddy timely and could have claimed the transportation charges. He further submits that the agreement also provides for settlement of disputes by way of Arbitration.
8. Given the said submissions by the counsel for the petitioners as well as by the counsel for the respective respondents, this Court is of the opinion that the present writ petition also can be disposed off in terms of the Order passed by this Court in WPC No. 1746 of 2015, decided on 30.09.2015.

9. Accordingly, it is directed that the petitioners shall immediately furnish all necessary documents and records available with them to the concerned authorities, pursuant to Annexure P-1. That the authorities thereafter shall tally the same and in the process, during preliminary investigation/enquiry is conducted it is found that there is shortage detected, then it should be inquired as to, whether the shortage has been on account of any natural reasons beyond the control of the petitioners or whether there has been a deliberate, intentional in-action on the part of the petitioners or such similar persons intentionally causing/damage or shortage to the paddy. Only then, thereafter on the basis of the enquiry, appropriate steps shall be taken.
10. 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 and the standards and specifications provided for the same.
11. It is expected that the petitioners shall approach the Respondent No. 7 or the other concerned officers, as the case may be, within a period of fifteen days from the date of receipt of copy of this Order.
12. With the aforesaid observations, the both the writ petitions stand disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved