

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (C) No. 2236 of 2020

Aadim Jaati Sewa Sehkar Samiti Maryadit Dharra Registration No. 1611, Through Its President Jaisingh Thakur, S/o Kosam Thakur, Aged About 48 Years, R/o Gram Tetalkhuti, Tehsil- Mainpur, District- Gariyabandh, Chhattisgarh.

---Petitioner(s)

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 (Food Section), 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 Petitioner	:	Shri Anjinesh Shukla, Advocate.
For State	:	Shri Raghvendra Verma, Govt. Advocate.
For Respondents 2&4	:	Shri Ashish Surana, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05.10.2020

1. The challenge in the present writ petition is Annexure P/1 passed by the District Collector dated 26.08.2020 whereby the Food Officer has issued a correspondence to the Assistant Registrar, Co-operative Society, District Gariyabandh to initiate appropriate action by filing an FIR against the Society and the Marketing Federation for the alleged shortage of paddy causing monetary loss to the Govt..
2. Learned counsel appearing for the petitioner submits that this court in the recent past in bunch of writ petitions leading case of which being WPC No.1602 of 2020, decided on 20.07.2020, had directed the authorities to conduct an enquiry firstly as to whether there is any shortage of paddy, secondly whether the shortage, if any, was on account of natural reasons

or was on account of some deliberate and intentional mischief on the part of the officers of the respondents and after an enquiry in case if it is on account of natural reasons then appropriate steps be taken in accordance with agreement entered into between the parties. He prays for a similar order to be passed in the present writ petition also.

3. The counsel for the respondents however, referring to Annexure P/1 submits that the said order seems to have been passed in the light of some directions given by this court in WPC No.1264 of 2020 and since it is as per the directions of this High Court, there does not seem to be any illegality in the said order. It was further contended by the respondents that the impugned order also seems to be after an enquiry conducted by a team of four members. Thus, the order passed by this court earlier stands duly complied with and it does not warrant any interference.
4. Having gone through the contentions on either side and on perusal of records what clearly reflects from Annexure P/1 is that the intention of this court while disposing of the earlier writ petition i.e. WPC No.1264 of 2020 was clear that the authority while conducting an enquiry should just not confine to determine whether there is a shortage, but the reasons for the shortage as well should have to be enquired and unless the reasons were other than natural reasons, there was no requirement for initiation of a criminal prosecution against any of the society or the office bearers of the said society. That it was with this intention this court had disposed of various writ petitions ordering to conduct an enquiry first and then find out the erring officers if any and proceed only against the erring officers. Such enquiry seems to have not been done in the facts of the present case.
5. That, there seems to be some verification of records before the impugned order was passed and also there also seems to be some shortage

detected in the course of verification of records, however, the cause of the shortage has not been looked into or verified nor is there any finding to that effect.

6. In view of the same, taking into consideration the order passed by this court in WPC No.1264 of 2020, decided on 13.07.2020 and also taking note of the subsequent decision dated 20.07.2020 in a bunch of writ petitions relied upon by the petitioner leading case of which being WPC No.1602 of 2020, this court is of the opinion that before the authorities take action in terms of Annexure P/1 dated 26.08.2020, it is required that they would conduct an enquiry/verification of facts to reach to a conclusion as to whether there is any default on the part of any of the officials which resulted in the shortage of paddy or whether the shortage of paddy was on account of any of the natural reasons like extreme climatic change etc. and then only to proceed further as per the order of the Food Officer, Annexure P/1.
7. In the light of the same, the present writ petition also stands disposed of expecting the respondent authorities to first conduct an enquiry in terms of the observations made in the preceding paragraph and then to take appropriate steps, if required, as per Annexure P/1 dated 26.08.2020.

Sd/-
(P. Sam Koshy)
Judge

inder