

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 2265 of 2020**

Seva Sahkari Samiti Maryadit Bahtara Through The Manager Virendra Sen,
S/o Ghasulal Sen, Aged About 39 Years, R/o Village - Bhatchaura, Tehsil -
Masturi, District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Co-Operative Department, New Mantralaya, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Managing Director, Marketing Federation Chhattisgarh Raipur, District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. The Collector, District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
4. District Co-Operative Marketing Federation Officer, Bilaspur, District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
5. Zila Sahkari Kendriya Bank Myd. Bilaspur, Through Nodal Office, Nehru Chowk, Sahkar Bhawan, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. G. R. Miri, Advocate
For State/Resp. 1 & 3	:	Mr. Raghvendra Verma, G.A.
For Resp. No. 2 & 4	:	Mr. Ashish Surana, Advocate.
For Respondents No. 5	:	Mr. P. N. Bharat with Mr. Jitendra Shrivastava, Advocates

Hon'ble Shri Justice P. Sam Koshy**Order on Board****06/10/2020**

1. The challenge in the writ petition is to a notice issued by the Respondent No. 5 dated 29.06.2020 (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 petitioner is that the petitioner were only the in-charge of a paddy procurement center and that the petitioner 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 petitioner 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 petitioner 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 petitioner resulting in the shortage the counsel for the petitioner 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 of 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 petitioner submits that similar direction in the present case would also suffice as the petitioner 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 respondent No.5 on 29.06.2020, 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 petitioner 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 inaction 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 petitioner shall approach the Respondent No. 5 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. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit