

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 2514 of 2020**

Sharif Khan S/o Basarat Khan Aged About 40 Years Incharge Samiti Prabandhak, Reg. No. 1424, Block Kashdol, Tehsil Kashdol, District Baloda Bazar Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Food, Civil Supplies And Consumer, Protection Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
2. Chhattisgarh State Co-Operative Marketing Federation Through Its Managing Director, 6th Floor, Tower C, Commercial Complex, Cbd Sector-21, Block C, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
3. District Marketing Officer Chhattisgarh State Co-Operative Marketing Federation, District Baloda Bazar Chhattisgarh, District Baloda Bazar-Bhatapara Chhattisgarh
4. Collector District Baloda Bazar Chhattisgarh District Baloda Bazar-Bhatapara Chhattisgarh
5. Deputy Registrar Co-Operative Societies, District Baloda Bazar Chhattisgarh, District Baloda Bazar-Bhatapara Chhattisgarh
6. Nodal Officer District Baloda Bazar, District Co-Operative Central Bank Limited, Raipur District Raipur Chhattisgarh
7. Branch Manager District Co-Operative Central Bank Limited, Raipur Branch Kasdol, District Baloda Bazar Chhattisgarh
8. Co-Operative Extension Officer Block Kasdol, District Baloda Bazar Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Shashank Thakur, Advocate
For State	:	Mr. Siddharth Dubey, Dy. G.A.
For Respondents No. 2 & 3	:	Mr. Ashish Surana, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****03/11/2020**

1. The challenge in the present writ petition is to the inquiry report dated 30.09.2020 and the subsequent order passed by the District

Collector (Annexure P/1) dated 07.10.2020 and also the subsequent order passed by the Nodal Officer of the respondent No.6-Bank (Annexure P/3) dated 08.10.2020 and also Annexure P/4 dated 09.10.2020 issued by the respondent No.7.

2. The facts in brief in the present case is that the petitioner is an Incharge Society Manager for the Primary Agriculture Credit Cooperative Society, Thargaon. There are three procurement centres under the said Cooperative Society at villages Thargaon, Dehra and Bilari (J). The petitioner was Incharge for the procurement centre at village Thargaon. So far as the procurement centre at village Khaira as also for the procurement centre at village Bilari (J), it was one Mr. Suryakant Patel and Mr. Niranjan Patel, who were Incharge for these two procurement centres. In the inquiry report the petitioner has been found to be held responsible for the loss/damage of 1242.26 quintals of paddy procured at the aforesaid three centres as is reflected from the inquiry report. Based upon which the Collector has subsequently issued Annexure P/2 followed by the orders Annexures P/3 & P/4, which are under challenge in the present writ petition.
3. The counsel for the petitioner drew the attention of this Court to an earlier writ petition which the petitioner had filed i.e. WPC No. 1860/2020 which was disposed of on 03.09.2020, wherein this Court had specifically held as under:

“7. Accordingly, the present writ petition stands disposed of directing the respondents first to undertake preliminary inquiry/investigation in respect of any alleged shortage of paddy or loss caused to the respondents in the process of purchase of paddy. That in the course of inquiry, it should be found out as to whether there has been a shortage of paddy

or not, there has been any damage or loss caused to the respondents or not and whether the said shortage or damage was in fact caused because of a deliberate and willful act on the part of the petitioner or any office bearers of the petitioner and only thereafter the respondents would take appropriate steps in terms of the agreement / contract entered into between the parties.

8. 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 in the agreement.”
4. The contention now that the petitioner has raised is that inspire of a specific direction by this Court the respondents have not cared for calling upon the petitioner to participate in the inquiry. The petitioner was not even called to record his statement or make his defense available. On the contrary, the Incharge for the Khaira procurement centre Mr. Suryakant Patel was called by the authorities his statement was also recorded. It is the further contention of the petitioner that the inquiry report also has till date not been duly served upon the petitioner and in all probability based upon the order of the Collector (Annexure P/2) and also the orders Annexures P/3 & P/4 the respondents are likely to pass a punitive order against the petitioner which could be detrimental to his career, so also would be detrimental for more than one reasons in addition to the adverse impact that it may have on his service conditions.
 5. The foremost contention objecting to the findings given by the Inquiry officer raised by the petitioner is that the petitioner cannot be held responsible for the loss and damage caused to the paddy procured and stored at the procurement centre at village Khaira as also at village Bilari (J) where there was specific officers authorized to take care of the paddy procured and stored there. Similarly, according to the counsel for the petitioner, because of the unprecedented heavy

rainfall intermittently that the area faced was one of the major reasons for the loss and damage, which aspect also has not been properly taken care of by the authorities concerned before giving a finding and thus prayed for the quashment of the same interdicting the action at this stage.

6. The counsel for the respondents-State as also the Marketing Federation opposing the petition submits that the petition at this juncture is too premature as it is only a submission of the inquiry report which has been challenged by the petitioner. No adverse final decision has yet been taken by the authorities for the petitioner to challenge. According to the learned counsel for the respondents the scope of judicial review and judicial interference at the stage of inquiry report is too minimal and on this reason also the writ petition should not be entertained at this stage.
7. Having heard the contentions put forth on either side and on perusal of record, conscious of the fact that this Court in exercise of its writ jurisdiction at the stage of an inquiry report would not have much power and scope to interfere with the same, but at the same time, this Court also cannot ignore the order passed by this Court earlier while disposing of WPC No. 1860/2020 decided on 03.09.2020. It was expected of the authorities that they would have abided by the observations and directions given by this Court before taking a decision. Keeping the aforesaid observations as it is this Court at this juncture would like to dispose of the writ petition directing the respondents to first duly serve the report to the petitioner calling upon his explanation on the same and thereafter on due

consideration of his submissions and contentions should the respondents take a decision in accordance with law.

8. Needless to mention that the contention that the petitioner shall raise in his representation to the inquiry report shall be objectively considered and dealt with by the authorities while taking a final decision. It is also made clear that while taking the decision by the authorities concerned, they should not be in any manner influenced by the correspondence made by the Collector and the other authorities vide Annexures P/2, P/3 & P/4. The authorities are expected to take an independent decision based upon the inquiry report and the contentions which the petitioner shall be submitting to the inquiry report.
9. It is further made clear that the right of the petitioner stands reserved to still challenge the subsequent action, in case if he still is aggrieved by any decision taken by the authorities.
10. The writ petition accordingly stands disposed of at this juncture.

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

Ved