

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC NO. 2594 OF 2020**

Shrawan Kashyap, aged about 34 years, S/o Amarnath Kashyap, occupation-Incharge of Paddy Procurement Centre, Guruwain Dabri, R/o Village Pajaniya, Police Station & Tahsil Lormi, District Mungeli (CG) Mo. No. 9754453938

... Petitioner(s)

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

... Respondent(s)

For Petitioner	:	Mr. Ratnesh Kumar Agrawal, Advocate.
For Respondents 1, 2 & 4	:	Mr. Sudeep Verma, Dy. A.G.
For Respondents 3 & 5	:	Mr. Ashish Surana, Advocate.
For Respondents 6 & 7	:	Mr. Prafull N. Bharat and Mr. Jitendra Shrivastava, Advocates.

Hon'ble Mr. Justice P. Sam Koshy

Order on Board

06.11.2020

1. Challenge in the present writ petition 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 against the concerned society in respect of the shortage of paddy collected by them.
2. Contention of learned Counsel for Petitioner is that the Petitioner was only the In-charge of a paddy procurement center and that the Petitioner at any of point of time has not committed any

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

3. On the contrary, learned Counsel for 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 have resulted in the damage of the paddy or shortage caused. In addition, there are also the climatic conditions which contribute to the shortage.

4. Learned Counsel for Petitioner further submits that in order to show that action has been initiated, the Respondents may without proper verification of facts falsely implicate the Petitioner in a criminal case making him a scapegoat, alleging the shortage of paddy.

5. As regards any deliberate act on the part of the Petitioner resulting in the shortage of paddy, learned Counsel for Petitioner referred to a writ petition of a similar nature, i.e., WPC No. 1746 of 2015, decided on 30.09.2015, wherein it was disposed of with a direction to the Petitioners therein 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 Petitioner is responsible and only thereafter appropriate steps should be taken. Learned Counsel for Petitioner submits that similar direction in the present case would also suffice as the Petitioner apprehends that

further coercive steps like recovery being made without any conducting of preliminary enquiry may take place and the Petitioner can be made a scapegoat.

6. Learned Counsel appearing for the respective Respondents submit that the Petitioner 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 learned Counsel for the Respondents is that Annexure P-1 itself clearly reflects that the Petitioner has been called to tally the accounts/entries in respect of the paddy collected and transported by him. According to learned Counsel for Respondents, this itself is a sort of verification being conducted and it is only thereafter that any action would be initiated.

7. Learned 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 Petitioner was 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 learned Counsel for Petitioner as well as by learned Counsels appearing for the respective Respondents, this Court is of the opinion that the present Writ Petition also can be disposed of 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 Petitioner shall immediately furnish all

necessary documents and records available with him to the concerned authorities, pursuant to Annexure P-1. The authorities thereafter shall tally the same and in the process, during the preliminary investigation/enquiry, if it is found that there is a shortage detected then it should be inquired as to whether the shortage has been on account of any natural reason beyond the control of the Petitioners or whether there has been a deliberate, intentional inaction on the part of the Petitioner 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.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. Writ Petition accordingly stand disposed of with the aforesaid observation.

/Sharad/

Sd/-
(P. Sam Koshy)
Judge