

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3440 of 2021**

- Adim Jati Sewa Sahkari Samiti Maryadit, Dhauratikra District Koriya, Through Manager Namely Ajay Kumar Sahu S/o Shri Kalicharan Sahu, Aged About 44 Years, R/o Village Bhandi, Post Kasara, Police Station And Tahsil Baikunthpur, District Koriya Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Co-Operative Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. The Secretary, Food, Civil Supply And Consumer Protection Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
3. Chhattisgarh State Cooperative Marketing Federation Limited, Through Its Managing Director, Chhattisgarh State Cooperative Marketing Federation Limited, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
4. The Registrar, Co-operative Societies, Indrawati Bhawan, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
5. The Collector, Koriya, District Koriya Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh
6. District Marketing Officer, Koriya, District Koriya Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh
7. Chhattisgarh Rajya Sahkari Bank (Apex Bank), Through The Managing Director, Chhattisgarh Rajya Sahkari Bank, Maryadit, Head Office, Shankar Bhawan, Plot No. 74, Sector-24, Nawa Raipur, Atal Nagar, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
8. District Cooperative Central Bank Limited, Through Its Chief Executive Officer, District Cooperative Central Bank Limited, Ambikapur, District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh
9. District Food Officer, Koriya, District Koriya Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh
10. The Deputy Registrar, Cooperative Societies, Koriya, District Koriya Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh

---- Respondents

For Petitioner	:	Shri Dharmesh Shrivastava, Advocate
For Respondents/State	:	Shri Aman Kesharwani, PL
For Respondents No.3 & 6	:	Shri Chetan Singh Chauhan, Advocate appears on behalf of Shri Ashish Surana, Advocate
For Respondent No.7	:	Shri Jitendra Shrivastava, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order

25/08/2021

1. The learned counsel for the parties jointly submit that this writ petition is covered by the decision rendered by this Court in WPC No. 2805 of 2021 in case of Gyanendra Pratap Singh v. State of Chhattisgarh and Others. Therefore, this writ petition may also be disposed off in terms of paragraphs 11 and 12 of Gyanendra Pratap Singh (supra).
2. This Court, while disposing off Gyanendra Pratap Singh (supra), vide paragraphs 11 and 12 held as under:

“11. The submissions of the petitioners and the respondents would show as on date that the dispute arisen about the performance of the agreement is quite logical that if the paddy was not transferred because of the fault of Marketing Federation and caused loss and further loss by rain it cannot be pass on to head of the petitioners. The submission of the petitioners that in absence of the DO/TO the paddy could not be transferred is also required to be examined to finalize the liability. All these issue are required to be adjudicated at the same time the petitioners cannot be driven to a corner by arm twisting method to lodge FIR for any loss which might have been caused. Therefore, under the facts of this case, to arrive at the finding of fact about failure of performance of agreement on either part of the party i.e. procurement centre or State Marketing Federation as per Clause 14 the issue is

referred to the Collector of the particular district. The Collector shall adjudicate the issue after the evidence is adduced about the non performance of part of the contract by either of the parties and shall thereafter decide it accordingly. The petitioners shall be at liberty to invoke clause 14 i.e. Arbitration Clause along with the memo of their claim for 2020-21 within a period of 2 weeks and the same shall be concluded with a reasonable time. The petitioners shall also be entitled to file any interim prayer in the circumstances of this case to claim interim due or any other relief to arrest further loss of paddy.

12. With the aforesaid observation, the petitions stand disposed of.”

3. Accepting the submission of the learned counsel for the parties, this writ petition is also disposed off in terms of paragraphs 11 and 12 of Gyanendra Pratap Singh (supra) and the Collector shall adjudicate the issue after evidence is adduced about non performance of the part of the contract by either of the parties itself, thereafter decide it accordingly.
4. The Petitioner shall be at liberty to invoke clause 14 i.e. Arbitration Clause along with the memo of their claim for the year 2020-21 within a period of two weeks and the same shall be concluded within a reasonable time. The Petitioner shall also be entitled to file an application for interim relief in the circumstances of this case to claim interest due or any other relief to arrest further loss of paddy.
5. The writ petition is accordingly disposed off.

Sd/-

Goutam Bhaduri
Judge

Ashu