

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3473 of 2021

- Adim Jati Sewa Sahkari Samiti Maryadit, Khairbar Through Manager, Saminuddin Ansari, S/o Jasimuddin Ansari, Aged About 48 Years, R/o Vivekanand Ward, Imlipara, Ward No. 35, Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), 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 Cooperative Societies, Indrawati Bhawan, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
5. The Collector Surguja, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
6. District Marketing Officer Ambikapur, District Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
7. District Cooperative Central Bank Limited, Through its Chief Executive Officer, District Cooperative Central Bank Limited, Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
8. Nodal Officer District Cooperative Central Bank Limited Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
9. District Food Officer Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

----Respondents

For Petitioner – Mr. Sanjay Pathak, Advocate.

For State – Ms. Astha Shukla, Panel Lawyer.

For Respondents No. 3 and 6 – Mr. Ashish Surana, Advocate.

For Respondents No.7 and 8 – Mr. Jitendra Shrivastava, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

25-10-2021

1. This petition has been brought being aggrieved by the issuance of show cause notice dated 05-06-2021 and letter dated 06-07-2021 issued by

respondent No.7.

2. It is submitted by learned counsel for the petitioner that the petitioner is a cooperative society being assigned with work of paddy purchase and thus it was a paddy purchase center for the year 2021. The petitioner society made purchase of paddy in total 14,320.80 quintal within the stipulated time and respondents have lifted 14,254.30 quintal paddy from the paddy purchase center. There had been shortage of 66.57 quintal, regarding which there is policy to give benefit for the loss of weight due to loss of moisture in the paddy purchased. Therefore, the shortage is within the permissible limits. It is submitted that without considering on this policy respondent No.7 has sent show cause notice dated 05-06-2021 alleging that the petitioners have misappropriated 67.57 quintal of paddy. Subsequent to which, another letter dated 06-07-2021 has been issued by respondent No.7 to the Nodal Officer, District Surguja directing him to lodge FIR against the petitioner.

3. It is submitted by learned counsel for the petitioner that shortage of the paddy is clearly attributable to the degree of moisture in the paddy purchased regarding which there is clear policy present of the State Government, which is mentioned in the clause 1.10. Hence, the issuance of notice to the petitioner and also the direction for lodging FIR against the petitioner is illegal and arbitrary. Therefore, it is prayed that appropriate orders may be passed.

4. Learned counsel for the State appearing for respondents No.1 and 2 opposes the submission and submits that there is no substance in the present petition, which may be dismissed.

5. Shri Ashish Surana, counsel for respondents No.3 to 6 and Shri Jitendra Shrivastava, counsel for respondents No.7 and 8 oppose the submission made by the counsel for the petitioner.

6. Considered on the submission and perused the documents present in record of the petition. The show cause notice was issued to the petitioner vide

Annexure-P/1 on 05-06-2021, in which the petitioner has liberty to submit reply and defend the allegation made against him. On perusal of the letter dated 06-07-2021 (Annexure-P/2) it is found that there is no mention of the proceeding initiated on the show cause notice (Annexure-P/1). The ground raised by the petitioner regarding the shortage of weight of the paddy purchased on the ground of loss of moisture during passing of time and that there is policy present allowing shortage of weight due to loss of moisture in the paddy purchased appears to have not been considered by respondent No.7 before issuing the letter vide Annexure-P/2. Therefore, there is requirement that respondent No.7 should provide the petitioner with opportunity to submit reply to the show cause notice, give proper opportunity of hearing for canvassing their defence and thereafter proceed to take decision on the notice issued in accordance with law.

In absence of any proof regarding any such proceeding have been completed and decision taken by the respondent, it is proper to direct respondent No.7 to do the needful in accordance with law. Hence, the petition is disposed off at motion stage and respondent No.7 is directed to provide the petitioners opportunity for filing reply to the show cause notice and also allow the petitioner to defend the allegations against them by giving proper opportunity of hearing. Subsequent to which, decision may be taken by respondent No.7 accordingly. Respondent No.7 is further directed to conclude the proceeding initiated on the show cause notice as early as possible within a period of 60 days from today and until then in case any FIR is not lodged against the petitioner society that shall be kept in abeyance until decision is taken by respondent No.7 on the show cause notice issued. With these observations, this petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge