

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3948 of 2021

Aadim Jati Sewa Sahkari Samiti Shiv Prasad Nagar, Block Bhaiyathan, District Surajpur Chhattisgarh, Through Its Incharge Of Purchasing Paddy Jivtesh Shrivastava, S/o. Shri Harvansh Shrivastava, Aged About 31 Years, R/o. Village Banja, Tahsil Bhaiyathan, District Surajpur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Department Of Co-Operative Society, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh
2. The Collector (Food Branch), Surajpur, District Surajpur, Chhattisgarh
3. Chief Executive Officer, Zila Sahkari Kendriya Bank Maryadit, Ambikapur, District Surguja, Chhattisgarh
4. The Nodal Officer, District Co-Operative Central Bank Surajpur, District Surajpur, Chhattisgarh
5. Additional Registrar, Co-Operative Society, Surajpur, District Surajpur, Chhattisgarh
6. Managing Director, Marketing Federation, Chhattisgarh, Raipur, District Raipur, Chhattisgarh
7. The Manager, Primary Krishi Sakh Sahakari Samity, Shiv Prasad Nagar, Bhaiyathan, District Surajpur, Chhattisgarh

---- Respondents

For Petitioner	: Shri Pushpendra Kumar Patel, Advocate
For State Respondents	: Shri Sudeep Agrawal, Dy. A.G.
For Respondents No.3 & 4	: Shri Jitendra Shrivastava, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

28.09.2021

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 & 12 of Gyanendra Pratap Singh (supra).

2. This Court, while disposing off Gyanendra Pratap Singh (supra), vide paragraphs 11 & 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 & 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 his 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

Aks