

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Order Reserved on 15/1/2021****Order delivered on 25/01/2021****WPIL No.135 of 2020**

1. Harshwardhan Singh, S/o Late Shri Satyavan Singh, aged about 53 years.
2. Shyamu Sahu, S/o Late Shri Firtu Ram Sahu, aged about 55 years.
Both are R/o Village Semariya, Post Kosa, Police Station Mulmula, Tehsil Pamgarh, District Janjgir-Champa (CG)
3. Kaushilya Devi, W/o Late Shri Jagatpal Singh, aged about 80 years.
4. Lata Sahu, W/o Late Shri Nakul Sahu, aged about 56 years,
Both are R/o Village & Post Kosa, Police Station Mulmula, Tehsil Pamgarh, District Janjgir Champa (CG)

---- Petitioners**Versus**

1. State of Chhattisgarh, Through Secretary, Department Food, Civil Supply and Consumer Protection, Raipur, Indarwati Bhawan, Naya Raipur (Chhattisgarh)
2. Registrar, Cooperative Societies, Raipur, Naya Raipur (CG)
3. Collector, Janjgir Champa, District Janjgir Champa (CG)
4. Sub-Registrar, Cooperative Society, Janjgir Champa, Tahsil and District Janjgir Champa (CG)
5. Food Officer, Food Department, Collectorate Premises, Janjgir Champa (CG)
6. Sewa Sahakari Samiti, Kosa Registration Number 626, Through its President, Sewa Sahakari Samiti, Kosa, P.S. Mulmula, Tahsil Pamgarh, District Janjgir Champa (CG)

7. Tahsildar, Pamgarh, Tahsil Pamgarh, District Janjgir Champa (Chhattisgarh).
8. Gram Panchayat, Dighora, Through its Sarpanch, Gram Panchayat, Dighora, Tahsil Pamgarh, District Janjgir Champa (Chhattisgarh)

---- Respondents

For Petitioners	: Mr. Shailesh Tiwari, Advocate
For Respondent No.1 to 5 & 7	: Mr. Chandresh Shrivastava, Dy. Advocate General.
For Respondent No.6	: Mr. Jaipal Singh Chandel Advocate on behalf of Mr. Saurabh Sharma Advocate.
For Respondent No.8	: Mr. Neeraj Choubey Advocate
For Intervener	: Mr. Barun K Chakrabarty, Advocate

Hon'ble Shri PR Ramachandra Menon, CJ

Hon'ble Shri Parth Prateem Sahu, J

CAV Order

Per Parth Prateem Sahu, J

1. The petitioners, who are farmers and residents of village Semariya & Kosa, have filed this public interest litigation seeking setting aside of the order dated 14.12.2020 passed by respondent No.4 directing the President / Manager of respondent No.6-Sewa Shahkari Samiti, Kosa, Block Pamgarh, District Janjgir-Champa (CG) to start procuring/ purchasing paddy at village Kosa after making necessary arrangements in this regard.
2. Pleadings in the petition are that respondent No.6-Sewa Shahkari Samiti, Kosa, a society registered under the Chhattisgarh Cooperative Societies Act, 1960, having its registration No.626, comprises of

two villages Semariya & Kosa. The State Government took a policy decision to procure paddy on 'Minimum Support Price' from the farmers and for that purpose guidelines have been issued by the Central Government as also the State Government. After issuance of guidelines for procurement of paddy, the State Government issued advisory from time to time to establish paddy procurement center of constructing concrete platforms at the earmarked places for properly stacking the paddy and protecting it from damages. The paddy is to be purchased from the farmers falling within the territorial jurisdiction of the society concerned and farmer members of that society. For last 8-10 years respondent No.6-Society is procuring paddy at Paddy Procurement Center, Semariya. For the purpose of developing Paddy Procurement Center and to comply with the directives/guidelines issued by the State Government from time to time to save the loss and damages to paddy, as many as nine big concrete platforms have been constructed at earmarked paddy procurement center at Semariya. Area earmarked and made available is about 5 acres of land. To save the stock of paddy at paddy procurement center from animals, theft etc., respondent No.6-Society had not only constructed concrete platforms but also encircled the

area with iron angle and barbed wires by investing huge amount. All the members and farmers registered with respondent No.6-Society, without any objection have been bringing their paddy for sale and the work of paddy procurement is smoothly being done for last 8-10 years. Due to political rivalry, some persons had made an application to the effect that paddy procurement centre be shifted from village Semariya to village Kosa. Based on this request, respondent No.4 has arbitrarily passed an order on 14.12.2020 and directed shifting of paddy procurement centre from village Semariya to village Kosa. The work of paddy procurement has already been started at Paddy Procurement Centre, Semariya since the date declared by the State Government. Sudden order/ direction to change the place of paddy procurement from Semariya to Kosa will cause great inconvenience not only to the farmers and members of society in selling their paddy but also to the Society. Huge amount of the Government fund from different heads is expended in raising required infrastructure at Paddy Procurement Center, Semariya.

3. Respondent No.6, a registered cooperative society, filed its reply to writ petition supporting the case of

petitioners. It is pleaded that paddy procurement is being done at the place reserved by members of respondent No.6-society. Every year the society has been resolving to purchase paddy at village Semariya and this year also it is resolved to purchase paddy at Paddy Procurement Centre, Semariya. Under the scheme of paddy procurement, the society has to enter into agreement with the Marketing Federation and bank, which is a tripartite agreement, wherein paddy procurement centre is also to be selected. There is a clause in the agreement that the society will be responsible for loss and damage to paddy. All the facilities during last 8-9 years have been made available by making permanent construction of concrete platforms and fence by expending huge amount. These facilities and infrastructure have been made available from the financial aid provided by the State Government under different heads. Total 09 concrete platforms have been constructed at Paddy Procurement Centre, Semariya, out of which 03 were constructed with the aid and help of respondent No.8-Gram Panchayat Dighora. About Rs.30,00,000/- has been incurred in construction of platform at Paddy Procurement Centre, Semariya. Purchase of paddy for the year 2020-21 by the society has been started on 7.12.2020 and till

issuance of the order dated 14.12.2020, about 9,130 quintal of paddy has been purchased from the farmers/ members of society by respondent No.6 at Semariya centre. Shifting of paddy procurement centre from Semariya to Kosa will cause inconvenience. Paddy purchase is to be done only up to 31.1.2021.

4. Respondent No.8-Gram Panchayat Kosa submitted its reply to writ petition supporting the case of petitioners. It is pleaded that respondent No.8 also contributed by giving funds for construction of concrete platforms recently in the year 2020 also. It is further pleaded that three concrete slabs have been constructed under the Mahatma Gandhi National Rural Employment Guarantee Scheme and for which there was a sanction of Rs.5.987 Lakh.
5. Respondents No.1 to 5 & 7 also submitted reply to writ petition raising a ground that present petition in the form of public interest litigation is not maintainable, inasmuch as the issue involved is purely personal dispute between the villagers of village Semariya and Kosa i.e. regarding change of place of paddy procurement centre. Respondent No.6 comprises of two villages namely Kosa & Semariya, but purposefully the petitioners have not impleaded

representatives of village Kosa and Semariya, instead they impleaded Gram Panchayat Dighora as a party to petition, which is not a dependent village for the purpose of selling paddy of residents of village Dighora at Paddy Procurement Centre, Kosa. After framing of scheme of paddy purchase under paddy procurement, the State Government has identified the societies and the places which are to be earmarked as paddy procurement centre. Since 2010-11 the Chhattisgarh State Cooperative Marketing Federation (for short 'Marketing Federation') is regularly issuing list of proposed district-wise banks, branches, societies, procurement centers and sub-procurement centre. Since 2010-11 for respondent No.6-Samiti, village Kosa is identified and earmarked as paddy procurement centre and no sub-paddy procurement centre is identified and earmarked in any village. When once the authorities have identified and earmarked paddy procurement centre, the members of respondent No.6-Society, without there being any order/direction by the competent authority, could not have changed the paddy procurement centre. In case at hand also, respondent No.6 of their own started procurement of paddy at village Semariya and on receiving complaints, appropriate order has been passed.

Paddy Procurement Centre, Kosa is having all the requisite facilities as per guidelines and specifications in this regard. Purchase of paddy at Paddy Procurement Centre, Kosa in pursuance of the order dated 14.12.2020 is in full swing, farmers/members of society are coming to the paddy procurement centre for selling paddy without any objection and about 65.5% of paddy of the quota calculated has already been purchased from the members of society i.e. respondent No.6. The State Government has earmarked and identified village Kosa to be paddy procurement centre for respondent No.6-Society; Gram Panchayat Dighora is having no say in any dispute in the Sewa Shahkari Samiti, Kosa as it does not form part of respondent No.6.

6. Mr. Shailesh Tiwari, learned counsel for the petitioners submits that after framing of scheme by the Central Government and the State Government for purchase of paddy from the farmers on Minimum Support Price (MSP) through co-operative societies, respondent No.6 asked Gram Panchayat Kosa to make available land for establishment of paddy procurement centre for purchase of paddy. Gram Panchayat Kosa neither replied nor made available the land required for said purpose. In such a

situation, village Semariya provided 05 acres of land and vide resolution of members of respondent No.6 society, paddy procurement centre at village Semariya was started. Since 2011 respondent No.6 has been purchasing paddy under the paddy procurement scheme on maximum support price from the farmers and members of society at village Semariya. From time to time several permanent constructions have also been made like concrete platforms, fencing on earmarked land of about 5 acre through iron angle & barbed wires to protect the paddy from any kind of loss or damage, which is also directive of the State Government that it is the duty and liability of the society to protect paddy procured and stocked in the paddy procurement centre for any kind of loss and damages. About Rs.30 lakhs has been invested in different intervals of time for construction of concrete platforms, fencing and for providing other facilities. This year also after entering into agreement with bank and Marketing Federation, the society had started purchasing paddy at fully developed Paddy Procurement Centre Semariya from 7.12.2020 but suddenly order has been served upon respondent No.6 that paddy procurement is to be done at village Kosa. No infrastructure is available in village Kosa because for

last so many years all the activities of paddy procurement from the farmers / members of respondent No.6-Society are being done at village Semariya only. By sudden change of place of paddy procurement, without application of mind, will not only cause great inconvenience to members of society but also financial loss to the 'Society' because all the infrastructure is now required to be developed at new place i.e. village Kosa. Action of respondent authorities is arbitrary and malafide being taken on the pressure of some of influential persons which is not beneficial to the public at large. Respondent No.4 is having no authority to pass order Annexure P-3 directing shifting of paddy procurement centre from village Semariya to village Kosa.

7. Mr. Jaipal Singh Chandel, learned counsel representing respondent No.6 supported the submissions made by learned counsel for petitioners and submits that respondent No.6-Society by expending huge amount got constructed concrete platforms and fenced the area developed as paddy procurement centre. Since 2011 every year resolution is passed by the members of the society for purchasing paddy at Paddy Procurement Centre, Semariya. Transport facility is more viable at village

Semariya than that of village Kosa. Even farmers and members of respondent No.6-Samiti wanted paddy procurement centre in village Semariya only. Total nine big concrete platforms have been constructed. Purchase of paddy for this year has been started from 7.12.2020 and about 9139 quintal of paddy has already been purchased / procured at Paddy Procurement Centre, Semariya. There is no facility available at Kosa, but as per direction issued by respondent No.4, respondent No.6 shifted its weighment machine to village Kosa, except that there is no infrastructure or facility. It is also submitted that as there is no fencing, there may be chances of loss and damage to paddy procured and stocked at Paddy Procurement Centre, Kosa. The Sub-Registrar is having no jurisdiction to issue any kind of order with the affairs of the society. Facilities have been provided for raising permanent construction over earmarked paddy procurement centre at village Semariya from government funds which have been allotted under different heads. Villagers have also made representation before the competent authority to continue with paddy procurement centre earmarked and developed at Village Semariya only.

8. Mr. Choubey, learned counsel for respondent No.8 while supporting submission made by learned counsel for the petitioners has argued that three concrete slabs have already been constructed at village Semariya for the purpose of paddy procurement and three concrete slabs are to be constructed under MANREGA for which an amount of Rs.5.987 lakhs has been sanctioned and utilized by village panchayat Dighora for construction of platforms.
9. Mr. Chandresh Shrivastava, learned Deputy Advocate General for the State submits that writ petition filed in its form is not maintainable. Grievance raised in this petition is only with regard to the order passed by the respondent No.4 directing for shifting of paddy procurement centre at identified village, which does not come within the purview of public interest litigation. Petitioners could have challenged the same before the competent authority or appropriate forum. He submits that submission of learned counsel for the petitioners that village Semariya is identified and earmarked as paddy procurement centre for paddy procurement is not correct. Referring to Annexure R-1 which is a list of name of banks, name of societies, paddy procurement centre and sub-paddy

procurement centre, which have been identified by office of the CG State Cooperative Marketing Federation of 2010-11, he submits that since beginning for respondent No.6, paddy procurement centre has been earmarked at village Kosa only. In the list there are some societies whose offices are situated in different villages but looking to the requirement, the paddy procurement centre has been made at different villages. Every year this list is issued and every year the paddy procurement centre is identified and earmarked. For the respondent No.6-society, paddy procurement centre is earmarked at village Kosa only. He submits that he has placed on record list of paddy procurement centres and name of societies of last five years showing that for respondent No.6 society, paddy procurement centre has been identified at village Kosa only. The office of society is at village Kosa, all the essential facilities are at Kosa. It is also submitted that village panchayat Dighora is not having any interest in respondent No.6 because it is not beneficiary of the society for the purpose of sale of paddy by farmers of that village i.e. Dighora. If any investment for development or construction of any structure is made by respondent No.6, then it is their own fault and mistake because that has been done without taking

prior approval/permission of the competent authority for changing the identified place of paddy procurement for respondent No.6 society. Since 14.12.2020 paddy procurement from the farmers and members of the society is smoothly going on without any demur or protest and till date procurement of more than 65% of quota of paddy has been done. Paddy has been purchased and stocked at village Kosa. It will not be in the interest of justice also for changing the place of procurement when it is already identified and earmarked and more than 65% of the paddy of quota has already been procured. He submits that all the facilities are there at Paddy Procurement Centre, Kosa, no inconvenience will be caused to anyone in any manner. Petitioners' contention that respondent No.4 is not having any authority to pass order Annexure P-3 is also not correct. The State Government has already identified and earmarked the paddy procurement centre which is continuously showing on the papers at Village Kosa for Sewa Shahkari Samiti, Kosa. Procurement of paddy made at any point of time by respondent No.6 at village Semariya is of their own wish and choice, without any order of the competent authority.

10. We have heard learned counsel for the parties and perused the records.
11. Though the petitioners have formulated grounds for filing this petition that for last 7-8 years paddy procurement/purchase is being done at village Semariya, but not placed on record any order issued by any authority in this regard. Learned Counsel appearing on behalf of the State has placed on record the list showing name of all the districts, banks, societies and paddy procurement centre earmarked for a particular society at particular village including respondent No.6. This list is not in any manner disputed by the learned counsel for the petitioners or respondent No.6-Society at any point of time, but for their submission that for last 7-8 years they are continuously purchasing paddy at Paddy Procurement Centre developed by them in village Semariya.
12. Learned counsel for the petitioners made a submission that huge expenditure has been made by utilizing different government funds at different points of time and nearly about Rs.30,00,000/- has been invested in constructing platforms and other infrastructure like fencing, hand-pump etc. for the benefits of farmers and members of society. When it

has been asked pin-pointedly from learned counsel for petitioners as to under which order the paddy procurement centre has been established in village Semariya, he could not be able to show any order in this regard, but for the resolution of the Society wherein Village Panchayat Kosa has been asked to make available land within 03 days and on its failure, they started purchasing paddy in village Semariya.

13. It is not in dispute that the paddy procurement scheme on minimum support price is a joint venture of the Central Government and the State Government; directives and guidelines in this regard have been issued from time to time by the State Government. The State Government with the help of Marketing Federation has identified banks, societies and villages where paddy is to be procured. This exercise of identifying the banks, societies and villages for paddy procurement centre & sub-centre, as submitted by learned counsel for the State, is not disputed by learned counsel for the petitioners or respondent No.6. Villagers of village Semariya or Kosa or members of respondent No.6-Samiti have not raised any objection before the Competent Authority against the change of identified place of paddy procurement as they have not placed on record any

document in this regard. When once policy decision is taken for procuring paddy on minimum support price by the Government, then the instructions and guidelines, if any, issued by the competent authority is required to be complied with in letter & spirit and if for any reason any of the members of any of the societies finds any difficulty to comply with the same, it should be brought to the notice of the competent authority by way of appropriate proceeding, which in this case appears to have not been done.

14. Undisputedly, within a week from the date of start of purchase of paddy at Paddy Procurement Centre, Semariya, more than 9000 quintal of paddy has been procured but since 14.12.2020 i.e. for last about more than one month, respondent No.6 is procuring paddy at village Kosa. The State Government in its reply has shown the stock of paddy at village Kosa, according to which, more than 65% of the paddy of the quota fixed has already been purchased by respondent No.6. This factual submission looking to the period of purchase till filing of reply, cannot be said to be totally incorrect.
15. Submission made by learned counsel for respondent No.6 that they have made huge expenditure in developing paddy procurement centre at Semariya

has not been disputed very specifically by learned State Counsel but for the submission that they have started procuring paddy at Semariya of their own without any order/permission of the competent authority. Investment and construction of infrastructure in village Semariya in absence of very specific denial and rebuttal cannot be said to be a false submission on the part of the petitioners or respondent No.6-society, but in view of very specific exercise done by the Marketing Federation for identifying banks, societies and procurement centres, which is a policy decision of the State Government, this Court will not exercise jurisdiction under Article 226 of the Constitution of India when the petitioners have failed to make out any case that the place identified by the Marketing Federation is changed suddenly. It is for the competent authority under the State Government to decide the dispute raised with regard to place of paddy procurement centre of respondent No.6-Society. The society has not challenged the order impugned.

16. For the foregoing reasons, we do not find any merit in this public interest litigation, which is liable to be dismissed and is hereby dismissed. However, considering the stand taken by respondent No.6-

Society, who has not objected/challenged the action of respondent No.4 and issuance of Annexure P-3 order, submission made by learned counsel for petitioners as also respondent No.6 that huge investment has been made for development paddy procurement centre at Semariya and its closure will cause loss to the public ex-chequer, we find it appropriate to grant liberty to the petitioners or respondent No.6 society to approach the competent authority for redressal of their grievances, as raised in this petition, by filing representation. If such a representation is filed, the competent authority concerned is directed to consider and decide the same at the earliest in accordance with law.

Sd/-
(PR Ramchandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-