

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 15488 of 2019

Pradeep Kumar Satapathy ***Petitioner***
Mr. Satya Ranjan Pati, Advocate

-versus-

State of Odisha and others ***Opp. Parties***
Mr. Dilip Kumar Mishra,
Additional Government Advocate
(For Opposite Party Nos.1,2,5,6 & 9)

Mr. Baidhar Sahoo, Advocate
(For Opposite Party No.8)

Mr. Sarathi Jyoti Mohanty, Advocate
(For Opposite Party Nos.12 to 20, 22 & 23)

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
26.04.2022

Order No.

8. 1. This matter is taken up through Hybrid mode.
2. Petitioner in this writ petition seeks for a direction to set aside Office order dated 15th July, 2019 (Annexure-1) passed by Collector and District Magistrate, Bargarh-Opposite Party No.5 pursuant to the direction of this Court vide order dated 1st May, 2019 in W.P.(C) No.8121 of 2019 by which the writ petition was disposed of and to allow him to participate in the enquiry before the Collector, Bargarh. He further prays for a direction to set aside order/letter dated 901 dated 22nd August, 2019 (Annexure-3) issued by Deputy Registrar, of Co-operative Societies, Bargarh Division, Bargarh in holding up the retiral dues of the Petitioner.

3. Alleging non-payment of crop insurance dues for Khariff 2017-18 under Pradhanmantri Fasal Bima Yojana (PMFBY), some of the farmers of Bhatli, Bargarh approached this Court in W.P.(C) No.8121 of 2019. The said writ petition was disposed of on 1st May, 2019 with a direction to the Petitioners therein to file a detailed representation before Collector, Bargarh-Opposite Party No.5 along with a direction to the Collector to dispose of the said representation within a period of two months there from by passing a reasoned order. Pursuant to the said direction, the Collector, Bargarh formed a Committee under his Chairmanship and enquired into the alleged irregularities in non-payment of the premium of the crop insurance for which the beneficiary farmers of Bhatli could not receive the crop insurance claim amount under PMFBY. On completion of enquiry, Collector, Bargarh passed the following order under Annexure-1.

“..... The committee after examination of all the records and hearing both the parties was of the opinion that due to non deposit of premium and non submission of data in excel sheet by the Secretary Bhatli PACS within due time, the farmers were deprived of getting their claim and suggested for realization of the insured amount from the person responsible for such lapses.

In view of the fact and circumstances as narrated above, I am of the opinion that the writ petitioners are deprived of the insurance claim amount due to the negligence and carelessness by the Bhatli PACS by not depositing the insurance premium debited from the accounts of the farmers within the Bank within due date. The entire claim amount is liable to be received from the erring officials of Bhatli PACS who are responsible for such lapses. The DRCS, Bargarh is directed to take immediate necessary action in the matter. With the above observation the representation dated 20.05.2019 of the petitioners is accordingly disposed of.

All concerned be intimated accordingly.”

In view of such direction and that the Petitioner was going to be superannuated on 31st August, 2019, the Deputy Registrar, Cooperative Societies, Bargarh-Opposite Party No.9, vide order dated 22nd August, 2019 (Annexure-3), directed the Assistant Registrar, Cooperative Societies, Bargarh-Opposite Party No.6 to hold up the retiral dues of the Petitioner.

4. It is contended by learned counsel for the petitioner that the Petitioner was not the Secretary of the concerned Cooperative Society, i.e., Bhatli Primary Agricultural Cooperative Society (PACS) at the relevant time. He joined as Secretary in-charge of Bhatli PACS on 27th July, 2017 pursuant to Office order No.1356 of the even date issued by the Assistant Registrar of the Cooperative Societies, Bargarh. As such, he cannot be held responsible for the alleged irregularities in deposit of premium for crop insurance with the insurer for the Kharif 2017-18. It is his submission that the Petitioner was not given any opportunity of hearing when the Collector, Bargarh conducted enquiry pursuant to the direction of this Court in earlier writ petition. Due to stoppage of his retiral dues without any justifiable reason, he is highly prejudiced and suffering a lot after his retirement. In that view of the matter, he prays for the aforesaid relief.

5. Mr. Sahoo, learned counsel for Opposite Party No.8 referring to the counter affidavit filed supported the order under Annexure-1. It is his submission that although the premium was deducted by the Bhatli PACS from the account of the farmers within the stipulated time, but the same was not deposited with

Sambalpur Central Co-op. Bank by the cut-off date. As a result of which, it could not be deposited with the Insurance Company. Consequently, the farmers were made to suffer. He further submits that the writ petition is not maintainable, as the Petitioner has remedy under Section 67(B) of the Cooperative Societies Act.

6. Mr. Mishra, learned AGA submits that there is no infirmity in the impugned order under Annexure-1. Pursuant to order passed by the Collector, Bargarh, the retiral dues of the Petitioner was stopped as he was scheduled to superannuate on 31st August, 2019. Pursuant to the direction under Annexure-1, the Petitioner along with others, who are *prima facie* found to be responsible for such lapses, have been noticed to show cause. If the Petitioner has any grievance with regard to stoppage of his retiral dues, he can raise the same before Deputy Registrar, Cooperative Societies, Bargarh by submitting his explanation. He, therefore, submits that the writ petition is premature and is not maintainable.

7. Mr. Mohanty, learned counsel appearing for some of beneficiary farmers submits that the Petitioner was functioning as the Assistant Secretary at the relevant time and took over the charge of Secretary of Bhatli PACS on 27th July, 2017. Thus, the Petitioner is responsible for all the irregularities.

8. Heard learned counsel for the parties and perused the materials on record. Pursuant to the direction of this Court in W.P.(C) No.8121 of 2019, Collector, Bargarh conducted enquiry in the matter by constituting a Committee under his

Chairmanship. Upon detailed enquiry, he passed the impugned order under Annexure-1. Perusal of the said order under Annexure-1 clearly discloses that the Collector has opined that due to negligence and callousness, Bhatli PACS by not depositing crop insurance premium after deducting the same from the accounts of the farmers, they could not get the benefit of the crop insurance for the year Kharif 2017-18. Collector, Bargarh has not named any particular person(s)/Officer(s)/staff holding him guilty of negligence/callousness. In that view of the matter, the DRCS by his letter under Annexure-3 instructed the Assistant Registrar of the Cooperative Societies to stop the disbursement of retiral dues of the Petitioner, as he was going to superannuate on 31st August, 2019. It is clear from the report of the Collector, Bargarh that the insurance premium was deposited with the District Central Co-op. Bank on 31st July, 2017, on which date, the Petitioner was the Secretary of Bhatli PACS. Thus, it cannot be ruled out that the Petitioner had not joined in Bhatli PACS, when the irregularities were committed, more particularly when he was continuing as Assistant Secretary in the said PACS before joining as Secretary. Moreover, DRCS vide his letter No.536 dated 16th April, 2022 has already directed the Petitioner along with some other staff of Bhatli PACS who were continuing at the relevant point of time to submit their explanation. Mr. Pati, learned counsel for the Petitioner submits since the letter dated 16th April, 2022 by the DRCS has been issued very recently, explanation thereto could not be submitted as yet.

9. In that view of the matter, this Court without expressing any opinion on the involvement of the Petitioner in the alleged irregularities of Bhatli PACS in not depositing the crop insurance premium in due time, disposes of the writ petition, without interfering with the impugned order under Annexure-1, with an observation that the Petitioner, if so advised, may participate in the proceeding before the Deputy Registrar, Cooperative Societies, Bargarh Division, Bargarh.

Issue urgent certified copy of the order on proper application.

