
(2019) 11 PAT CK 0149

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 14976 Of 2019

Bipin Kumar Singh

APPELLANT

Vs

State Of Bihar Through And Ors

RESPONDENT

Date of Decision : 26-11-2019

Acts Referred:

Citation : (2019) 11 PAT CK 0149

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Sharda Nand Mishra, Uday Shankar Saran Singh, Swapnil Kumar Singh, Bindhyachal Rai

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioner; learned AC to GP-19 for the State and learned counsel for the Bihar State Co-operative Bank Ltd. (hereinafter referred to as the 'Bank').

2. The petitioner has moved the Court for the following reliefs:

"(I) For issuance of writ nature of certiorari for quashing the order letter bearing memo No.759 dt. 31.07.2016 issued under signature District Co-operative Officer, Madhepura, by which directed stayed the further work of concern PACS.

(II) For quashing the letter dt. 03.01.2018 issued under signature Bihar State Co-operative Bank by which notice for payment of Rs.5,48,176.53 within 15 days as taken loans for purchasing paddy Rs.5,34,089.82 in the year 2015-16 but petitioner has not deposited, its interest Rs.50,800.53 is due for payment.

(III) For issue direction to the respondents for taking action for recovery from millers (respondent no. 12) as per the Audit Report 25.12.2016 and resolution dt. 24.02.2017 which meeting presided by District Co-operative Officer, Madhepura, by which held that shortage/defalcated paddy of Pirnagar PACS by millers (respondent no. 12) and millers admitted in the meeting the dated

24.02.2017 that he has received paddy from the petitioner and others, same shall be deposited CMR in between 28.02.2017 to 15.03.2017 in meanwhile payment shall be made to the PACS and also admitted by the respondent no. 12 M/s Govind Rice Mills, if not deposited till 15.03.2017 then District Co-operative Officer, Madhepura, shall take action against Millers, but no action taken against mills but petitioner has falsely been alleged by FIR as Gwalpara P.S. Case No.61/2016 and have stayed the other activity to the PACS.

(IV) For issue direction to respondents for staying any action against petitioner for recovery purchased paddy in the year 2015-16 as he has not committed any fault rather committed by respondent no. 11 as by letter dated 15.06.2016 by which enforced for depositing purchased paddy in the year 2015-16 before respondent no.12, who admitted the meeting the dated 24.02.2017 as he received paddy from the petitioner and others.

(V) For direction to respondent no. 12 to pay the Rs.21,88,362/- to petitioner as per audit report dt. 25.12.2016.

(VI) For give other legal consequential benefit to the petitioner."

3. The petitioner, being Chairman of Sahpur PACS in the district of Madhepura, is accused of having supplied paddy to the rice mills without taking the required CMR from them.

4. Learned counsel for the petitioner submitted that as per the agreement, the procured paddy was to be supplied to the rice mills in lieu of certain percentage of CMR, but the Co-operative Extension Officer, Udakishunganj/Gwalpada, by letter dated 15.06.2016 to the petitioner had directed for giving paddy to the rice mills and for obtaining CMR and, thus, the petitioner had given the paddy to the concerned rice mills. It was submitted that the District Co-operative Officer, Madhepura, had called a meeting of the rice mill owners, who had agreed to deposit the remaining CMR, within two weeks, in the meeting dated 24.02.2017, but the same was not done, for which the petitioner is not responsible. It was further submitted that for such conduct First Information Report was lodged against the rice mill owners, who had undertaken to supply the CMR, but were absconding after taking anticipatory bail. Learned counsel submitted that the paddy having been handed over to the rice mills under the orders of the Co-operative Extension Officer, he cannot be held responsible for such non-compliance by the rice mills and in any view of the matter, he cannot be debarred from contesting the election for the next five years.

5. Learned counsel for the Bank submitted that as per the agreement, the petitioner being the Chairman had to first take the CMR and in proportion paddy had to be given to the rice mills, but the petitioner had given the paddy without taking the required CMR. It was further submitted that even the letter of Co-operative Extension Officer did not indicate that the paddy was to be given and CMR was to be taken later on, which would be evident from the plain reading of the said document. Learned counsel submitted that such blatant irregularities,

which is directly in the teeth of the agreement between the parties, clearly proves that the petitioner is also guilty of causing loss to the State exchequer when payment has been made to the farmers for paddy, which was taken by the rice mills and no CMR returned.

6. The petitioner has also filed Interlocutory Application No. 01 of 2019 for amendment of the writ petition to include challenge to letter dated 16.11.2019 issued by the District Co-operative Officer, Madhepura, debarring the petitioner from contesting the PACS election for five years relating to Shahpur PACS.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present writ application.

8. From the materials on record, the Court finds the contention of the learned counsel for the Bank appears to be correct. As per the agreement, the petitioner was required to ensure advance receipt of CMR before handing over the paddy to the rice mills and, admittedly, same has not been done. Even, with regard to the so called letter of the Co-operative Extension Officer dated 15.06.2016 to the petitioner to hand over the paddy to the rice mills, does not help the petitioner for the reason that in the same letter it is mentioned that the paddy has to be handed over keeping in mind the receipt of CMR. Thus, from the admitted position, it is clearly in complete violation of the terms of the agreement. The petitioner has handed over huge amount of paddy to the rice mills, which has resulted in loss to the State exchequer as no equivalent CMR was ever returned by them.

9. Accordingly, the application stands dismissed. Interlocutory Application No.01 of 2019 stands disposed off.

10. However, the petitioner shall be at liberty to move before the appropriate forum, which would not include the High Court in its writ jurisdiction, in accordance with law, for redressal of his grievance. If the petitioner moves before the concerned appropriate forum, in accordance with law, the case shall be decided on its own merit without being prejudiced by the present order.