

Court No. - 8

Case :- WRIT - C No. - 1006128 of 2014

Petitioner :- M/S Ajay Brothers Gonda Thru Prop. Ajay Kumar Mittal

Respondent :- State Of U.P. Thru Secy. Govt. Of Agriculture Deptt. And 6 Ors

Counsel for Petitioner :- Vashu Deo Mishra

Counsel for Respondent :- C.S.C.,Dr. V.K. Singh,Rajiv Singh Chauhan

Hon'ble Pankaj Bhatia,J.

No one appears for the respondent even in the revised call.

The Standing Counsel is present for the respondent no. 1.

The present petition has been filed by the petitioner challenging the order dated 26.12.2012 passed by the respondent no. 3 as well as the order dated 22.07.2014 passed by the respondent no. 2.

The facts in brief are that the petitioner had purchased certain grains in the month of July, 2012 to September, 2012 through a firm at Amroha after furnishing gate pass. Subsequently, the petitioner was served a show cause notice to the effect that the Mandi Samiti at Hasanpur had informed that the gate pass was not issued by them. The petitioner objected stated that the petitioner was a bonafide purchaser and in fact, an F.I.R. was also got lodged by the petitioner. Despite the petitioner having submitted his reply and the ground that it was a second transaction as such, no mandi fee and development cess was leviable, an order came to be passed by the respondent no. 3 assessing the liability of mandi fee and development cess at Rs.43497/-. The reply of the petitioner that it was a second sale was not considered. The petitioner preferred a revision, which too was dismissed without considering the said fact.

Considering the fact that the specific defence taken by the petitioner that he was a bonafide purchaser and the liability if any, was on the seller of the food-grains was not considered, as such, the impugned orders dated 26.12.2012 and 27.07.2014 cannot be sustained and are quashed.

The writ petition is accordingly, **allowed**.

Order Date :- 16.12.2023/Raj