

CWP No. 11075 of 2012

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 11075 of 2012
Date of Decision : 11.12.2015.

Sunder Lal

...Petitioner

Versus

The State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) *Whether Reporters of the local papers may be allowed to see the judgment?*
- 2) *To be referred to the Reporters or not?*
- 3) *Whether the judgment should be reported in the Digest?*

Present: Mr. Raj Kapoor Malik, Advocate for the petitioner.

Mr. Sandeep S. Mann, Sr. D.A.G., Haryana.

Paramjeet Singh, J.(Oral)

The instant writ petition has been filed for quashing of show cause notice dated 08.03.2011 (Annexure P-1), order dated 18.05.2011 (Annexure P-2) passed by District Food and Supply Controller, Kaithal and order dated 20.06.2011 (Annexure P-4) passed by Deputy Commissioner, Kaithal.

Brief facts of the case are that petitioner was appointed as a Depot Holder for distribution of ration to the various categories as per the Public Distribution System and the instructions framed by the State of Haryana.

The depot of the petitioner was checked on

26.02.2011 by the Assistant Food and Supply officer along with Ramesh Chand Sub Inspector and Dalip Kapoor, Inspector and the following irregularities were found at the depot of the petitioner :-

- "1. During physical checking, name of depot holder, license number of depot and blue paint were not there on the drums of kerosene oil.*
- 2. Depot holder has charged the price of wheat ₹1.50 per card from AAY card holders and 1.85 per from the APL card holders over and above the price fixed and has been charged over and above to fixed price ₹2.90 per card for kerosene oil from the APL card holders.*
- 3. Depot holder has not distributed the wheat for the month of February 2011 to APL card No. 564519, 564516, 248030 and 819783, whereas stock of wheat of APL is nil as register.*
- 4. BPL and AAY card No. 775636, 743429, 74334, 743306, 564516, 522986, 563145, who are the consumer of the LPG, they have not issued kerosene oil but same is entered in registered also vide entry Sr. No. 224, 227, 252, 258, 263, 282 and 293 and shown as 8-8 ltrs. against them and on the aforementioned cards, no entry of kerosene oil has been made."*

In pursuance of the inspection, show cause notice dated 08.03.2011 (Annexure P-1) was issued to the petitioner. Thereafter petitioner was afforded opportunity of hearing and the District Food and Supply Controller, Kaithal came to a conclusion that the aforesaid irregularities have been committed by the petitioner. The said order has been affirmed by the Deputy Commissioner, Kaithal vide its order dated

20.06.2011 (Annexure P-4). Hence, this writ petition.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner vehemently contended that he has raised objection with regard to the allegations levelled in the show cause notice dated 08.03.2011 (Annexure P-1) but the same have not been considered. The orders passed by the District Food and Supply Controller, Kaithal as well as the Deputy Commissioner, Kaithal are non-speaking and as such are not sustainable in the eyes of law. Even the affidavits given by the persons have not been taken into consideration. Counsel for the petitioner further contended that identical show cause notices were issued to six other persons, namely, Parveen Kumar, Rinku, Mukesh Kumar and others but no action has been taken against them.

On the other hand, learned State counsel vehemently contended that at the time of inspection, various irregularities were found in the depot of the petitioner. The petitioner has not supplied the wheat etc. to the poor sections of the society, who have been issued APL cards. The numbers of cards to which wheat was required to be supplied for the month of February 2011, have not been produced before the concerned authorities for perusal, rather as per the Stock Register of APL cards, the wheat has been shown as 'Nil' for the

month of February, 2011. Similar is the situation in respect of the BPL and AAY cards as mention in para 4 of the show cause notice (Annexure P-1). In this way, the petitioner has virtually mis-appropriated food grains provided by the Govt. for the poor sections of the society.

I have given my thoughtful consideration to the contention raised by the respective parties.

The only argument raised by the petitioner is that wheat has been distributed to the APL, BPL and AAY Card holders but to substantiate his contention, no evidence has been brought on record in the petition. Mere receiving of affidavits from the persons to the effect that no irregularities have been committed by the petitioner, is not sufficient. The petitioner has withheld the best evidence of Ration Cards. Instead of affidavits of the cardholders, he should have produced the documentary evidence to show that those persons have got the wheat, kerosene and other articles in subsequent months. This appears to have been withheld as they may have drawn their ration etc. and possibility of making entry for the month of February, 2011 in between may be difficult. Since the petitioner has withheld the best evidence and even this Court has specifically asked the petitioner to produce the relevant documents but he has failed to do so and only affidavits submitted by the persons cannot be accepted. It

is settled principle of law that oral evidence is to be discarded when the documentary evidence is available.

Be that as it may, there is no material has placed on record to show that food grains and other items have been distributed the ration card holders. The findings of facts have been recorded by both the authorities, which do not call for any interference by this Court. So far as the contention that similar notices have been issued to others for committing such irregularities but they have been exonerated. Such a contention cannot be appreciate in the present case as they may have given explanation to the concerned authorities in their case.

I do not find any illegality or perversity in the impugned orders.

Dismissed.

December 11, 2015.
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(PARAMJEET SINGH)
JUDGE