

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 17468 of 2013

Reserved On : July 02, 2015

Pronounced On : 06.07.2015

Jaipal Singh

.... Petitioner

vs.

Punjab Mandi Board and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. J. S. Maanipur, Advocate
for the petitioner.

Mr. I. S. Sidhu, Advocate
for the respondents.

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DEEPAK SIBAL, J. :

Through the present petition, the petitioner seeks quashing of order dated 06.08.2013 (Annexure P-6), passed by respondent no. 2, whereby, his promotion to the post of Accountant has been recommended to be cancelled.

Shorn of unnecessary details, the relevant facts, which need to be noticed are that vide resolution dated 01.10.2012, passed by the Market

Committee, Banur, the petitioner was sought to be promoted as Accountant. However, when the resolution was scrutinized by the District Mandi Officer, SAS Nagar, he found that the petitioner was not eligible for being promoted as Accountant, and therefore, a recommendation dated 06.08.2013 (Annexure P-6) was made for cancellation of the resolution dated 01.10.2012, passed by the Market Committee, Banur. While forwarding a copy of the recommendation to the Secretary, Market Committee, Banur, the District Mandi Officer ordered that the resolution dated 01.10.2012 be stayed till further orders to be passed by the Secretary of the Punjab Mandi Board (hereinafter referred to as – the Board).

The above referred recommendation dated 06.08.2013 (Annexure P-6) is challenged through the present writ petition.

At the very outset, counsel for the respondents has raised a preliminary objection to the very maintainability of the present petition at this stage before this Court. He submits that the impugned order dated 06.08.2013 (Annexure P-6) is only a recommendation and the procedure as prescribed under Section 33 (4) of the Punjab Agricultural Produce Markets Act, 1961 (hereinafter referred to as – the Act) is yet to be followed as the recommendations are yet to be considered by the Board and thereafter, along with comments of the concerned Market Committee, if any, the entire matter is to be placed before the Government for taking a final decision thereupon. It is thus submitted that the present petition being premature is, at this stage, liable to be dismissed.

Counsel for the petitioner does not dispute the above said process as provided under Section 33 (4) of the Act. However, he submitted that the directions for staying of the resolution dated 01.10.2012 passed in the impugned order dated 06.08.2013 (Annexure P-6), by the District Mandi Officer, are without jurisdiction.

Before proceeding further in the matter, Section 33 (4) of the Act may be referred to, which is as under :-

“33. Power to call information, inspect, enforce attendance and to suspend action, etc. of Committees

(1) - xx xx xx

(2) - xx xx xx

(3) - xx xx xx

(4) - (i) The Board may, by order in writing, annul any proceedings of a Committee or sub-Committee or Joint Committee or ad hoc Committee which it considers not to be in conformity with law or with the rules or bye-laws made thereunder and may do all things necessary to secure such conformity, or may suspend any resolution which it considers likely to cause injury or annoyance to the public or

is likely to affect adversely the interest of the Committee or of producers or dealers or any class of functionaries working in the notified market area concerned.

(ii) The Board may , by order in writing, suspend the execution of any resolution or order of a Committee or sub-committee, or joint Committee or ad hoc Committee, or prohibit the doing of any act which is being done or is about to be done in pursuance of or under cover of this Act or any rule or bye-law made thereunder, if in its opinion, the resolution, order or act is in excess of the powers conferred by law, or is likely to cause injury or annoyance to the public or is likely to affect adversely the interest of the Committee or of producers or of dealers or of any class of functionaries working in the notified market area concerned.

(iii) When the Board makes an order under this sub-section, he shall forthwith forward a copy thereof, with a statement of reasons for making it and the explanation, if

any, of the Committee concerned, to the State Government who may thereupon rescind the order or direct that it shall continue in force with or without modification, permanently or for such period as it thinks fit.”

A perusal of the above quoted provision makes it abundantly clear that any proceeding of a Committee can be annulled by the Board in case the Board is of the opinion that the same contravenes any law, rules or bye-laws or/and if the proceeding is likely to cause injury or annoyance to the public or is likely to affect adversely the interest of the Committee or Sub-committee etc. If the Board decides to annul any proceeding of a Committee, Sub-committee etc., it is required to forthwith forward a copy thereof with all reasons for arriving at such a conclusion along with the explanation, if any, of the concerned Committee to the State Government and then it is the State Government, which is authorized to take a final decision thereon.

The impugned recommendation is by the District Mandi Officer, who could only make recommendations for further consideration of the matter by the Board and then by the State Government in accordance with the provisions of Section 33 (4) of the Act. No order could be passed by the District Mandi Officer staying the operation of the resolution dated

01.10.2012 (Annexure P-4).

In view of the above, it is directed that the respondents would permit the petitioner to continue to discharge his duties on the promoted post of Accountant, which he holds in pursuance to the resolution dated 01.10.2012 (Annexure P-4) and the order of his promotion dated 03.10.2012 (Annexure P-5). However, such continuance would be subject to the final decision to be taken on the recommendations dated 06.08.2013 (Annexure P-6) of the District Mandi Officer by the competent authority under Section 33 (4) of the Act. These proceedings be finalised within three months from the date of receipt of a certified copy of this order. It is further directed that before any final decision is taken, which may adversely affect the petitioner, he shall be granted an opportunity of hearing.

The writ petition stands disposed of in the above terms.

(DEEPAK SIBAL)
JUDGE

Pronounced On : 06.07.2015

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