

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

239

CM No.273 of 2015 and
CWP No.15387 of 2014

Date of Decision: January 19, 2015

Prem Lal

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Avnish Mittal, Advocate
for the petitioner.

Mr. Vinod S. Bhardwaj, Additional Advocate General, Punjab.

Mr. Sumit Jain, Advocate and
Mr. Sanjay Dhiman, Advocate
for respondent No.4.

Mr. Ramesh Kumar, Advocate
for respondents No.5 and 6.

S.J. VAZIFDAR, ACTING CHIEF JUSTICE (ORAL)

C.M. No.273 of 2015

This is an application under Section 151 CPC for placing on record the written statement on behalf of respondent No.4 along with Annexures R-4/1 to R-4/6 and for exemption from filing certified copies of the same.

For the reasons stated in the application, the same is allowed subject to all just exceptions.

CWP No.15387 of 2014

Rule returned forthwith.

2. The petitioner has challenged the orders dated 09.07.2013 and 12.02.2014 passed by the Tender Committee and the Managing Director of respondent No.4 i.e. Punjab State Warehousing Corporation, cancelling a contract entered into between respondent No.4 and the petitioner for handling and transport of food grains.

3. Upon the termination of the contract which was issued pursuant to the tenders having been invited, respondent No.5 was awarded the contract for the balance work. Respondent No.5 has now executed the contract and had been paid for the same by respondent No.4. Thus, no reliefs can now be claimed against respondent No.5. In any event, even assuming that the termination of the tender was wrongful, no reliefs can be granted against respondent No.5.

4. By an order dated 19.04.2012, the petitioner had been blacklisted. His appeal against the order was dismissed. The Appellate Authority, however, restricted the period of blacklisting to one year and imposed a penalty of ₹1 lakh. The petitioner challenged this order by filing Civil Writ Petition No.21186 of 2012, which was disposed of by an order and judgment of the Division Bench of this Court dated 21.03.2013. The Division Bench set aside the said orders dated 19.04.2012 and 04.10.2012 on the ground that they were passed in violation of principles of natural justice. The Division Bench directed the petitioner to appear before the District Tender committee on 04.04.2013 and granted him liberty to make written as well as oral submissions. The Division Bench also directed the

Tender Committee to pass a speaking order.

5. It is pursuant to the above order of the Division Bench that the orders impugned in the present writ petition were passed. Despite the said order and judgment of the Division Bench, the impugned order dated 12.02.2014 does not contain any reasons. In any event it does not consider the most crucial aspect of the matter. The allegation against the petitioner was that he failed and neglected to provide labour to load the rice of FCI on 14.04.2012 and 15.04.2012.

6. In the written representations, the petitioner expressly stated that he was prevented from providing the labour and that he was not responsible for the labour nor working. In fact, by a letter dated 16.04.2012, the petitioner stated that when he reached the site in the morning with his labour at the warehouse, about 70-80 persons had blocked the gate. To avoid any untoward incident, the officers of respondent No.4 entrusted the work of loading the material to FCI for special loading. The petitioner expressly requested to be allowed to carry out the special loading in the presence of the police force, so that the work could go on smoothly. There was no response to this letter. The petitioner also filed detailed written submissions. We do not suggest that all the issues ought to have been considered. However, especially while blacklisting, it was necessary to consider the reasons for the petitioner having failed to comply with the conditions for which he was blacklisted. This very issue was dealt with in considerable detail in the written submissions. The impugned order, however, does not deal with these submissions in any manner whatsoever. The order merely states that the petitioner ought to have made the workforce available from other resources. That misses the point. The defence was that the workforce made available by the petitioner was not permitted to enter

the premises in order to enable them to carry out the work. This aspect has not been dealt with. The respondents despite the opportunity once again did not pass a reasoned order.

7. In the circumstances, the impugned order is quashed and set aside. It is however, clarified that in the event of the petitioner filing any proceedings for damages or compensation, this order and judgment will not prejudice the respondents in any manner whatsoever. It would be open to them to defend the same on merits. Any such proceedings shall be decided on their own merits after taking into consideration all the submissions of the respondents concerned including any additional or further evidence.

(S. J. VAZIFDAR)
ACTING CHIEF JUSTICE

January 19, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE