

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

-.-

C.W.P No. 4342 of 2014

Date of Decision: 09.12.2015.

**The Hans Kalan Multipurpose Coop.
Agriculture Service Society**

.....Petitioner

Versus

State of Punjab & Ors.

.....Respondents.

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.

Present:- Mr. I.S.Saggu, Advocate, for the petitioner.

Mr. V. Ram Swaroop, Addl. A.G., Punjab

Rakesh Kumar Jain, J (ORAL)

The petitioner is aggrieved only against the finding recorded in para 15 by the Financial Commissioner, Cooperation in his order dated 03.02.2014.

It all started with the filing of C.W.P. No. 27413 of 2013, titled as “The Hans Kalan Multipurpose Cooperative Agriculture Service Society Ltd. Vs. State of Punjab & Ors.” In para 12 of this writ petition, the petitioner averred *“that it is further submitted here that the petitioner-society held the meeting on 19.09.2013 and resolved that since the society got more commission i.e. Rs.57/- per Quintal from KRIBHCO and Rs.48/- per Quintal from IFFCO whereas Markfed only gives Rs.35/- per Quintal as commission on DAP Fertilizer. Therefore, the societies very well within its*

powers to purchase the Fertilizer from the open market.” The said writ petition was disposed of on 13.12.2013 and converted into a representation and the Financial Commissioner, Cooperation was directed to decide the same within 15 days, in accordance with law. The Financial Commissioner, Cooperation passed the order on the said representation on 03.02.2014, in which the following observation has been made:-

“The fact that the members of the managing committee of the petitioner society has not passed resolution dated 19.09.2013 for purchasing fertilizer directly is also noteworthy. This indicates that the petition has been filed by vested interests without taking the managing committee into confidence. Registrar is directed to hold an enquiry into the matter and take appropriate legal action against the delinquent employee/employees of the society for filing the false statement in the Court.”

Thereupon a contempt petition was also filed by three societies i.e. The Sidhwan Bet Multipurpose Cooperative Agriculture Service Society Limited; The Bharowal Kalan, Cooperative Agriculture Service Society Limited and Hans Kalan Multipurpose Cooperative Agriculture Service Society Limited, for violating the order dated 19.11.2007 passed in C.W.P. No. 10987 of 2007. In the said contempt petition, the resolution dated 23.09.2013 passed by the Sidhwan Bet Multipurpose Cooperative Agriculture Service Society Limited was attached.

Present petition has been filed to challenge the order dated 03.02.2014.

Learned counsel for the petitioner has submitted that he has a grievance only against the observations made by the Financial Commissioner, Cooperation in para 15 of his order dated 03.02.2014 and has also submitted that due to inadvertence on his part, he had mentioned that the resolution was passed on 19.09.2013 by the petitioner-society, whereas it was passed by the Sidhwan Bet Multipurpose Cooperative Agriculture Service Society Limited therefore, the averments made in para No.12 of C.W.P. No. 27413 of 2013 were incorrect. He has, thus, prayed that the observations in para 15 of the impugned order is because of inadvertence on his part and the said finding may be set aside.

Learned counsel for the respondents, however, submits that the said findings are based upon the pleadings in the petition, therefore, it cannot be set aside in the writ of certiorari. In case the petitioner is aggrieved against the said finding, which has been recorded because of inadvertence on his part, he may make an application to the Financial Commissioner, Cooperation for review.

I have heard learned counsel for the parties and after examination of the available record, am of the considered opinion that finding recorded in para 15 of the impugned order dated 03.02.2014 is a finding of fact. Until and unless the petitioner proves on record that the said finding has been wrongly recorded, it cannot be set aside by the higher authority, but at the same time the said finding can be modified/changed in

review application. Thus, no relief can be given in the present petition. However, the petitioner, may, if so advised, file a review application before the same authority, who has passed the order dated 03.02.2014.

Dismissed.

December 09, 2015
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(RAKESH KUMAR JAIN)
JUDGE