

CWP No.6264-2013

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

CWP No.6264-2013

Date of Decision:05.12.2015

Vipan Kumar

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

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. Narinder Sharma, Advocate,
for the petitioner.

Mr. Suresh Singla, Addl. A. G. Punjab.

Mr. Puneet Gupta, Advocate,
for respondent No.7.

Paramjeet Singh, J.

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for setting aside the order dated 14.05.2012 (Annexure P-8) passed by respondent No.3-Deputy Director (Field), Department of Food, Civil Supplies and Consumer Affairs (food Distribution), Ferozepur whereby depot of respondent No.7 has been restored and for issuance of direction to respondent Nos.1 to 6 to register a criminal case against respondent Nos.7 and 8 for theft/embezzlement/fraud of ration goods.

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Brief facts of the present case are to the effect that the petitioner, who is a resident of village Gill Patti, District Bathinda and has been issued ration card by the department concerned to avail the benefits under various schemes like APL, BPL, Antodya, Blue Cards etc. Respondent Nos.7 and 8 are the depot holders who have been issued licences by respondent Nos.4 to 6 for public distribution of ration goods supplied by the Govt. under various schemes to the card holders attached to their depots in village Gill Patti, District Bathinda. The petitioner along with other card holders filed CWP No.10071 of 2010 before this Court with the allegations that respondent Nos.7 and 8 were indulging in various kinds of mal-practices and they had not supplied the ration goods to the card-holders. The aforesaid petition was disposed of by this Court vide order dated 09.07.2010 (Annexure P-2) with a direction to respondent Nos.2 to 4 to redress the grievance of the present petitioner and others by holding a fact finding inquiry in accordance with law. In compliance of the order dated 09.07.2010, respondent No.4 entrusted the inquiry to respondent No.5-District Food and Supply Officer, Bathinda to conduct the fact finding inquiry. The petitioner and others appeared before respondent No.5 and made statements with regard to the misappropriation of ration goods by respondent Nos.7 and 8 and also submitted all the documents. After inquiry conducted into the matter, respondent No.5 found respondent Nos.7 and 8 guilty of the misappropriation of of ration goods and submitted the inquiry report to

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respondent No.4, who cancelled the depot licence of respondent No.7 and forfeited the security deposited, vide order dated 11.03.2011 (Annexure P-6). However, no criminal case was registered against respondent Nos.7 and 8. Thereafter, the petitioner and others visited the authorities concerned for registration of case against respondent Nos.7 and 8 but no action was taken, rather appeal filed by respondent No.7 against the order dated 11.03.2011 (Annexure P-6) was accepted and reinstated the depot licence of respondent No.7, however, forfeited the security vide impugned order dated 14.05.2012. Hence, this writ petition.

In pursuance of notice of motion, respondent Nos.1 to 6 filed reply with the averments that the concerned Inspector checked the stock registers of respondent No.7 and reported that respondent No.7 had lifted 25-00 Qunitals of wheat in the month of February, 2010, 50-00 Qunitals in March 2010 and 22-00 Qunitals of wheat in the month of May, 2010, respectively. Except these months, respondent No.7 did not lift wheat in any other month. While checking the sale register of respondent No.7, it was found that he had distributed wheat to the consumers in correct quantities and at correct rate in the months of February and March, 2010. The petitioner and others also admitted that they had received APL wheat from respondent No.7 in correct quantities and at correct rate in the above mentioned months. So far as the month of May, 2010 is concerned, it was found that there was no entries showing distribution of

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wheat to complainants except two entries amongst complainants named Badal Singh and Sikander Singh getting 10-10 kgs of wheat distributed to each of them which were found to be bogus. The kerosene oil register has also been found to be correct. Besides this, Gram Panchayat of village Gill Patti stated that essential commodities are being fairly distributed by respondent No.7. The inquiry officer also physically verified the depot of respondent No.7 where no material irregularity was found. Perusal of official record and inquiries conducted into the matter reveals that respondent No.7 had some personal dispute in the village. As per the inquiry report of Asstt. Food and Supply Officer, Bathinda, allegation made by the petitioner and others in complaint against respondent No.7 has not been proved. Respondent No.4 had cancelled the licence of respondent No.7 on 11.03.2011 depending upon the inquiry reports dated 18.11.2008 and 24.11.2008 i.e. after a long delay of two and a half years. During the aforesaid period, respondent No.7 has improved his conduct and started fairly distributing the essential commodities. So far as respondent No.8 is concerned, his depot has already deemed to have been cancelled as he has not lifted supply of essential commodities and supply of his depot has been attached to another depot holder named Inderjeet Singh of village Multania.

Respondent No.7 also filed his separate written statement the petitioner made complaints in 2001 about the alleged malpractice taken place in the year 2008. However, instant writ petition has been filed

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after a period of almost eight months of passing of order dated 14.05.2012 (Annexure P-8). The mother of respondent No.7 had filed a complaint against the father of petitioner and another in which they have been summoned. The petitioner has filed the instant petition due to personal enmity. The petitioner fairly supplied all the essential commodities to the card holders. Other averments made in the petitioner have been denied.

Replication to written statement of respondent Nos.1 to 6 has been filed reiterating the averments made in the petition.

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

Learned counsel for the petitioner contended that respondent No.3 has committed a grave error while setting aside the well reasoned order dated 11.03.2011 by holding that depot could not be cancelled on the basis of illegalities allegedly committed by respondent No.7 two and half years ago. There are serious allegations against respondent Nos.7 and 8 that they had misappropriated the ration goods.

Per contra, learned State counsel and learned counsel for respondent No.7 vehemently opposed the contentions of learned counsel for the petitioner and supported the impugned order. Some minor shortcomings were pointed out by the authorities in the depot of respondent No.7. There are no serious allegations of misappropriation of ration goods. Otherwise also, after appreciation of fact finding inquiry

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conducted into the matter by the officer, the impugned order has been passed. The petitioner has filed the instant petition due to personal enmity with respondent No.7.

I have considered the rival contentions of learned counsel for the parties.

Vide impugned order dated 14.05.2012 (Annexure P-8), respondent No.3 has recorded categoric finding that there is no serious allegation against respondent No.7 which may warrant suspension of ration-depot. Admittedly, there is a dispute between the petitioner and respondent No.7. The mother of respondent No.7 has filed a criminal complaint against father of petitioner and another in which they have been charge-sheeted under Sections 451/506/509 read with Section 34 IPC. It has also been recorded by respondent No.3 that complaints filed by the petitioner and others against respondent No.7 were not proved. Respondent No.3 has rightly held that the District Food and Supply Controller had wrongly cancelled the depot of respondent No.7 on 11.03.2011 only on the basis of inquiries conducted, by the Assistant Food and Supply Officer, two and half years prior to that. The Gram Panchayat has also stated that essential commodities are being fairly distributed by respondent No.7. The authorities concerned have found some irregularities on the part of respondent No.7, however, there is no allegation of misappropriation of rationed commodities. So far as respondent No.8 is concerned, his depot has already been cancelled as he

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had not lifted supply of essential commodities since 2009 and supply of his depot had been attached to another depot holder.

In view of above, I do not find any illegality or perversity in the impugned order.

Dismissed.

If the petitioner finds other irregularities/misappropriation of ration on the part of respondent No.7, he will be at liberty to bring it to the notice of the authorities concerned.

05.12.2015
parveen kumar

(Paramjeet Singh)
Judge