

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

Civil Writ Petition No.9296 of 2014 (O&M)

Date of decision: 06.01.2015

Barjinder Singh and another

... Petitioners

versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Jasdev Singh Mehndiratta, Advocate,
for the petitioners.

Mr. Ranbir Singh Pathania, DAG, Punjab.

Mr. Somesh Gupta, Advocate,
for respondents 4 and 5.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

CM No.53 of 2015

Exemption granted, as sought for. Reply to the application filed by respondents 4 and 5 is taken on record.

Application stands disposed of.

Civil Writ Petition No.9296 of 2014

1. The writ petition challenges the list published by the respondents declaring the petitioner to be a “defaulter”, which characterization disentitles the allotment of paddy for milling. The

petitioner is aggrieved about the sealing of the premises that took place in the year 2011 for some alleged misconduct on the part of the petitioner. This was a subject of challenge in CWP No.13141 of 2011. This court by a judgment dated 13.12.2011 found the sealing of the premises to be bad and directed the de-sealing of the premises and allowed the petitioner the liberty of initiating an arbitral process for determination of any damage that may be quantified as resulting from the wrongful sealing of the premises. It appears that the arbitral proceedings have indeed been initiated and they are still pending.

2. Notwithstanding the petitioner's success in the writ petition, the allotments for subsequent year was denied on the ground that at the time when the petitioner sought for the relief, the season had concluded. The persistence in treating the petitioner as a defaulter has, according to the petitioner, denied to him the right of allotments and consequently, he has been put to loss.

3. In my view, the writ petition challenging the list will not be appropriate remedy at all. If there has been indeed a default in payment, the reason may be either on account of misconduct of the respondents or on account of the petitioner himself. That will be really a point of adjudication before the Arbitrator and the outcome in the arbitration proceedings will determine whether the petitioner was wrongly declared as a defaulter and whether the petitioner is actually entitled to even obtain damages in the manner that he has

claimed before the Arbitrator. If there has been subsequent denial of allotments on the basis of the default that had taken place, admittedly which is subject of arbitration, it must be taken as a consequential loss and the same cannot be determined in this writ petition. A mere prayer that he is not a defaulter and that his name cannot be included in the list will not obtain to the petitioner any effective relief. The petitioner ought to await the decision in the arbitral proceedings and depending on how the Arbitrator adjudicates on the respective rights of parties will also determine the nature of relief that is possible for the petitioner for the subsequent years. It shall be open to the petitioner to resort to an action for damages through an independent civil suit and stay his own suit till the arbitral proceeding decide one way or the other and use the same for assessment of damages, if he is so entitled.

4. With these observations, the writ petition is disposed of.

(K.KANNAN)
JUDGE

06.01.2015
sanjeev