

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

**LPA No.707 of 2014 (O&M)
Date of Decision: 30.04.2015**

The Punjab State Cooperative Supply &
Marketing Federation Ltd. (MARKFED) ... Appellant

VS.

UOI & Ors. ... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE P.B. BAJANTHRI**

- 1. Whether Reporters of 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. Vikas Singh, Advocate for the appellant

Mr. Rajiv Sharma, Advocate for UOI

Mr. KK Gupta, Advocate for FCI

Mr. Aman Bahri, Addl. AG Punjab

SURYA KANT, J. (Oral)

(1) This order shall dispose of LPA Nos.707 to 710 & 1446 of 2014 as the point in issue is common. For brevity, the facts are taken from LPA No.707 of 2014. The appellant - Punjab State Co-operative Supply & Marketing Federation Ltd. (MARKFED) is a Punjab Government entity. The Food Corporation of India raised multiple recovery claims against the appellant on account of the alleged moisture content of BRL rice stocks and such recovery being to the tune of crores of rupees in each case, the MARKFED challenged those decisions before this Court through four writ petitions filed in the year 2007-2008.

(2) It appears that counsel for MARKFED did not appear on 27.07.2012 to argue the cases hence the same were adjourned to 26.11.2012 as a last opportunity. On that date also, learned counsel being not available, the writ petitions were dismissed for non-prosecution. Within few days, the appellant applied for restoration of its writ petitions but its application(s) were dismissed on 08.03.2013.

(3) The appellant then filed LPA No.885 of 2013 which was also dismissed observing that the appeal would not be maintainable as the appellant could seek restoration of the restoration application for which the Appellate Bench granted liberty to the appellant to take necessary steps.

(4) MARKFED then again moved application before the learned Single Judge and this time its learned counsel did appear in support of the prayer but the learned Single Judge dismissed the same giving rise to these appeals.

(5) Learned Single Judge has observed that the writ petitions were pending since the year 2007-2008 and there was no serious attempt made by the appellant to argue the cases. It is further observed that the appellant took recourse to a totally misconceived and ill-advised remedy of filing LPA in which almost 7 months' time was wasted.

(6) We have heard learned counsel for the parties and gone through the record.

(7) We are satisfied that notwithstanding the remiss shown by the appellant in pursuing its writ petitions before the learned Single Judge, there were no compelling reasons for the Court in not deciding the writ petition(s) on merits. It is difficult to infer that the appellant had any deliberate or preconceived motive in not pursuing its cases when the total financial liability fastened on it runs into crores of rupees. The appellant did explain that the cause of non-appearance was that the assisting counsel had shifted his base from Chandigarh to Delhi and the authorities were not aware of the listing of the cases.

(8) There was no rhyme or reason for not accepting such an explanation. Still, if it were a case of inexcusable negligence, the appellant could be burdened with costs. Be that as it may, we are satisfied that the appellant deserves adjudication of its case(s) on merits.

(9) For the reasons afore-stated, we allow the appeal(s); set aside the orders dated 10.02.2014, 26.11.2012 and the order dated 08.03.2013 rejecting the application for restoration. As a sequel thereto, the writ petition(s) shall stand restored to their respective original numbers and files and the same are ordered to be listed before the learned Single Judge as per roster on 07.07.2015.

(10) Parties are directed to appear before the learned Single Judge on the date fixed.

(11) The aforesaid order, however, is subject to the cost of ₹10,000/- in each case i.e. a total of ₹50,000/- to be deposited by the appellant in the High Court Lawyers Welfare Fund.

(12) Ordered accordingly.

(Surya Kant)
Judge

30.04.2015
vishal shonkar

(P.B. Bajanthri)
Judge