

CWP No.7206 of 2013

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

**CWP No.7206 of 2013
Date of decision:31.08.2016**

The Grangan Multipurpose Coop.
Agricultural Service Society Ltd.

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. M.S.Kang, Advocate,
for the petitioner.

Mr. Anant Kataria, DAG, Punjab.

Rakesh Kumar Jain, J.

The petitioner is a cooperative society, known as, the Grangan Multipurpose Coop. Agricultural Service Society Limited (hereinafter referred to as the “Society”) registered under the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as the “Act”) and is governed by the provisions of the Act and the Punjab Cooperative Societies Rules, 1963. The Society has framed Bye-Laws for conduct of its business in the line of “Model Bye-laws” framed by the Registrar, Cooperative Societies, Punjab. As per Bye-law 4(3), the object of the Society is to make arrangements for the supply of agricultural requirements to its members such as manure, fertilizer, improved seeds, implements, insecticides and other production requisites etc. etc. with a view to promote increased agricultural production and to provide consumption loans to non-agriculturists members. The

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Society is neither the dealer nor the distributor as it does not sell the fertilizers rather purchases the same from Dealers for its members.

According to the respondents, the fertilizer is an essential commodity and covered under the Fertilizer (Control) Order, 1985 (hereinafter referred to as the "Order"). According to Clause 19 of the Order, no-one can sell, offer for sell, supply, stock and distribute fertilizer which is not of the prescribed standard. It is also the case of the respondents that a sample was taken from the fertilizer lying in the premises of the Society, of the Neutral Ammonium Citrate, stored for the supply to the farmers and is fully covered under the Order and the Essential Commodity Act, 1955, as it has been found to be sub-standard.

Counsel for the petitioner has submitted that the petitioner is not a dealer and has relied upon a decision of the Supreme Court rendered in the case of **State of Punjab vs. Guno Majra Co-operative Agriculture Service Society Ltd.**, 2000(9) SCC 210 to contend that the Society is exempted from registration being an Agricultural Service Society and cannot be held to be a dealer within the meaning of Clauses (2)(f) and 7 of the Order. It is further submitted that the petitioner has given a detailed reply to the show cause notice issued by the respondents with reference to the aforesaid judgment of the Supreme Court but the respondent No.2 simply observed that "*I do not agree with your reply*" without giving any reason for his disagreement especially when the petitioner has relied upon the law laid down by the Apex Court which, according to the petitioner, is squarely applicable to the facts and circumstances of this case.

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Counsel for the respondents, however, submitted that no doubt that the petitioner being a Agricultural Service Society is exempted to get registration certificate but it cannot be permitted to sell or supply substandard fertilizers to its members.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that not only the respondents have violated the principles of natural justice by not recording reasons in the order dated 11.03.2013 wherein respondent No.2 has simply recorded his disagreement with the reply filed by the petitioner but there is also no reason to deviate from the law laid down by the Apex Court in **State of Punjab's case (supra)** in which it has been held that Clauses 2(f) and 7 of the Order would not be applicable to the Agricultural Service Society as it would not fall within the definition of the dealer.

Thus, in view of the aforesaid discussion, the present writ petition is hereby allowed and the impugned order dated 11.03.2013 is hereby set aside.

August 31, 2016
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No