

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM No.3413-14 of 2016 and
LPA No.1276 of 2016
Date of decision: 14.9.2016

The Malwa Industrial and Marketing and others

...Appellants

v.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE DR.SHEKHER DHAWAN

Present: Mr.S.S.Salar, Advocate for the appellants.
Mr.Manoj Bajaj, Additional Advocate General,
Punjab.

MAHESH GROVER, J.

CM No.3413 of 2016

Allowed as prayed for.

CM No.3414 of 2016

For the reasons stated in the application and the facts that have emerged during the course of hearing of the application, we would recall the order dated 26.8.2016.

Main case

The appellants, who are also the writ petitioners, had approached this Court with a grievance against an order suspending their licences to manufacture/supply of

special mixture fertilizers. Reference is made to clause 32(a) of the Fertilizers (Control) Order, 1985 providing a remedy of appeal to a person aggrieved against the suspension or cancellation of certificate of manufacture or suspension or cancellation of authorization letter permitting sale of fertilizer. According to this, clause of the Fertilizers (Control) Order, 1985 appeal is maintainable before an Appellate Authority, to be constituted by the State Government by notification in the Official Gazette, specifying such authority before whom an appeal was maintainable within thirty days, from the date of passing of an adverse order to a person.

The learned Single Judge dismissed the writ petition by referring to the aforesaid alternate remedy available to the petitioners but failed to take note of the fact of the grievance of the appellants that the State had failed to constitute an Appellate Authority in terms of clause 32(a) of the Fertilizers (Control) Order, 1985.

Before us when this grievance was raised, we required of Mr. Manoj Bajaj, Additional Advocate General, representing the State of Punjab to respond to the contention raised by learned counsel for the appellants that there is no Appellate Authority constituted under the

Fertilizers (Control) Order, 1985. Pursuant to which on 26.8.2016, Mr.Bajaj, on instructions from Mr.Harsargeet Singh, Agriculture Development Officer, informed the Court that the Appellate Court is functional.

On the basis of this information, this Court disposed of the Letters Patent Appeal, by giving a liberty to the appellants to file an application within three days before the said Authority, to be disposed of by it, within a period of ten days thereafter.

It is thereafter the application bearing No.3414 of 2016 has been filed to contend that the statement made by Mr.Harsargeet Singh, Agriculture Development Officer was false and no such authority has been constituted or is functional which is conceded by Mr.Bajaj today in Court.

The statement made by Mr.Harsargeet Singh, Agriculture Development Officer, therefore, clearly resulted in obstruction in the course of justice and has virtually defeated the rights of the appellants. We may notice that the appellants are facing adverse orders and noticing the urgency involved we directed the competent authority to dispose of the application moved by the appellants within ten days. The statement of Mr.Harsargeet Singh, Agriculture Development Officer has, thus, not only resulted

in wastage of time of the Court but has also caused immense loss to the appellants. Had this statement not been made, we would have heard the case on merits. In the wake of an Appellate Authority not being constituted, the writ court would have possibly entertained the grievance and the cause espoused by the appellants to answer on merits.

For the reasons that it has now been candidly accepted by learned State counsel that an Authority under the Fertilizers (Control) Order, 1985 has not been constituted, we would deem it appropriate to set aside the order of the learned Single Judge and remit the matter back to the writ court to decide the matter afresh including the availability of a remedy of writ in the light of what has been noticed above that an alternate remedy is unavailable to the appellants in view of the peculiar circumstances. Noticing the urgency in the matter, we would while setting aside the order also direct the listing of the matter before the writ court on 22.9.2016.

Before parting with the order, we notice the irresponsible conduct of Mr.Harsargeet Singh, Agriculture Development Officer whose statement singularly resulted in virtually defeating the cause of the appellants as also

causing obstruction in the course of justice, apart from wastage of time of the Court. He is burdened with the cost of Rs.25,000/- which shall be recovered from his personal pay and this fact would be entered in his service book. The costs would be deposited in the account of Punjab and Haryana High Court Employees Association, Chandigarh within one week from today with the receipt to be furnished before the writ court.

LPA stands disposed of.

Office is directed to list the matter on 22.9.2016 before the writ Court.

(MAHESH GROVER)
JUDGE

September 14, 2016
KD

(SHEKHER DHAWAN)
JUDGE

Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No