

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.20645 of 2017

Date of Decision: November 01, 2017

The Punjab State Co-operative Supply and Marketing Federation,
Chandigarh

. . . . Petitioner

Vs.

State of Punjab and others

. . . . Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.Karanjit Singh, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner has challenged the validity of the orders dated 04.01.2017 (Annexure P-3) passed by respondent No.1, 23.09.2014 (Annexure P-2) passed by respondent No.2 and 25.02.2011 (Annexure P-3) passed by respondent No.3.

The brief facts are that respondent No.4 & 5 were posted at Branch Office, Jagraon as Assistant Foreman and F.O. during the year 1996-97. At that time paddy was purchased and stored by respondent No.5 and one G.S. Bahia, the then S.B.O. and 14430 bags of common variety and 4310 bags of fine variety of paddy were stored in their custody and instructions were issued to them to get the paddy milled lying in their custody with the stock of joint custody which they failed to get milled in time. Subsequently, the said paddy was milled on actual weight basis and a shortage of 938.65 quintals in common variety and 267.77 quintals of fine variety of paddy was found. Both respondents No.4 & 5 confirmed the shortage by signing the M.I.S. and P.V. report and as such they had caused

loss to the petitioner/Markfed. It is alleged that they were charge-sheeted for causing the said loss and in an enquiry they were indicted, which was accepted by the M.D. Markfed and both respondents No.4 & 5 were made liable to pay ₹19,60,697/- (₹6,32,483/- as principal amount and ₹13,28,214/- as interest @ 21% per annum) on account of loss suffered by the Markfed. The petitioner then filed arbitration case under Sections 55 & 56 of the Punjab Co-operative Societies Act, 1961 [for short 'the Act'] before the Deputy Registrar, Cooperative Societies, Ludhiana for the purpose of recovering the amount. However, the said arbitration case was dismissed on 12.10.2009. The said order was further challenged in appeal filed under Section 68 of the Act before the Joint Registrar, Cooperative Societies, Patiala Division, Patiala after a delay of two years as it was filed on 19.12.2011. The said appeal was dismissed for non-appearance of the petitioner on 2.11.2012. The petitioner filed an application for restoration of the appeal allegedly by giving wrong facts on 1.4.2013. The said application was returned on the same day but it was again filed on 14.3.2014. The said application was dismissed on 23.9.2014 as a result thereof, the appeal was also dismissed. The petitioner then filed revision under Section 69 of the Act before the Registrar (Management), Cooperative Societies, Punjab after a period of two years. The said revision was also dismissed vide order dated 4.1.2017.

Learned counsel for the petitioner has failed to make out a case in order to explain the lapse on the part of Markfed at every stage after the order was passed by the Deputy Registrar on 12.10.2007 in favour of respondents No.4 & 5, who happen to be the former employees of the Markfed and were made liable to pay an amount of ₹19,60,697/- .

After hearing learned counsel for the petitioner and examining the record, I do not find any merit in the present petition as no case has been made out. However, it is a case where the Managing Director of the Markfed is required to take some action against the Law Officers, who were to pursue and had pursued the appeal and revision before the authorities under the Act, the persons who were also concerned in the drafting and filing of the appeal and revision in time and against the person who did not appear at the time of hearing in the appeal when it was dismissed in default.

Should the Court not take an impression that the said officials were hand in glove with respondents No.4 & 5 in whose favour the Deputy Registrar had passed the order on 12.10.2009 discharging them from their liability to pay ₹19,60,697/-. There is no explanation given as to why the said order was challenged by the Markfed after a period of two years by way of an appeal. There is no reason given by the petitioner as to why the appeal was allowed to be dismissed on account of non-appearance of the counsel for the Markfed. There is no reason for not filing the revision in time which was also filed after a period two years. All these proceedings indicates that respondents No.4 & 5 might have prevailed upon the concerned persons, who had to challenge the order of the Deputy Registrar in time otherwise there was no occasion for the concerned persons to have delayed the proceedings for over a period of two years in filing the appeal. It appears that respondents No.4 & 5 had ultimately succeeded because there is no ground in this petition for the purpose of setting aside the impugned orders and as such the order dated 12.10.2009 is upheld in their favour but the persons, who are involved in this case are required to be brought to book after holding a thorough enquiry for the loss caused to Markfed.

The present petition is thus dismissed being without any merit but direction is issued to the M.D. Markfed to hold thorough enquiry in terms of the observations made above and also ensure by issuing office circulars/guidelines whatsoever that the appeals/revisions are filed in time and also ensure that the cases should not be dismissed in default. The enquiry shall be completed within a period of three months from the date of receipt of certified copy of this order and report of the enquiry should be placed before this Court.

November 01, 2017

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No