

CWP-34-2017 (O&M)

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

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**CWP-34-2017 (O&M).
Decided on: February 7, 2017.**

M/s Anjali Food Products

.. Petitioner(s)

VERSUS

Market Committee and others.

.. Respondent(s)

*** * ***

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI
*** * ***

**PRESENT Mr.Ishan Gupta, Advocate,
for the petitioner.**

M.M.S. BEDI, J. (ORAL)

Petitioner seeks quashing of order dated 31.8.2016, (Annexure P2) claiming that the same is violative of instructions dated 10.6.1994, (Annexure P3), instructions dated 1.7.2003 (Annexure P4) and Rule 29 (7) (8) and Rule 30 (1) (9) of the Punjab Agricultural Produce Markets (General) Rules, 1962.

A perusal of order, Annexure P2, indicates that in order to substantiate the claim of the petitioner that the petitioner had purchased rice from outside the State of Punjab, the complete record had not been submitted by the petitioner before the Secretary-cum-Assessing Authority, Market Committee, Sangrur. The petitioner may be entitled to exemption from payment of market fee but he would be required to establish his claim

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before the competent authority. The appeal against the order passed by the Secretary-cum-Assessing Authority, Market Committee, Sangrur, is maintainable under Section 10 (4) of the Punjab Agricultural Produce Markets Act, 1961 as well as under Rule 31 (13) of the Punjab Agricultural Produce Markets (General) Rules, 1962.

Counsel for the petitioner submits that the market fee has already been paid to the authorities in Uttar Pradesh.

The disputed questions of fact cannot be looked into in the present writ petition.

Notice to the Advocate General, Punjab.

On asking of the Court, notice has been accepted by Ms.Anu Pal, AAG., Punjab, present in the Court. Copy given.

Without expression of any opinion on merits, it is sufficient to observe that though an opportunity of hearing had been given to the petitioner to produce the record but despite reminders, it has not produced the record. At this stage, I deem it appropriate, in the interest of justice, to give a fair opportunity to the petitioner to produce the entire record before the Secretary within a period of one month and to satisfy the said authority that no market fee is leviable as per the provisions of law and the judgment in **CWP No.2291 of 2007, titled as Punjab State Agricultural Market Board and others Vs. State of Punjab and others, decided on 20.2.2007.** Instead of relegating the petitioner to the alternative remedy of appeal, taking into consideration the rules of natural justice, I deem it appropriate to give a fair opportunity to the petitioner to approach the Secretary, Market Committee, Sangrur, for enforcement of the legal right

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claimed by the petitioner for exemption from payment of market fee on account of rice purchased out of State of Punjab.

The petition, at this stage, is disposed of with above directions. All the pleas taken up by the petitioner may be raised before the above said concerned authority. The Secretary, Market Committee, Sangrur, will pass a speaking order considering all the pleas of the petitioner expeditiously.

It is ordered that during pendency of the consideration of the claim of the petitioner by Secretary, Market Committee, Sangrur, recovery of the amount assessed vide Annexure P2, dated 31.8.2016, will not be enforced.

The petition has been disposed of in limine taking into consideration the fact that the petitioner has not been able to put his grievance though a fair opportunity had been given to it. In case the petitioner does not appear before the Secretary, Market committee, Sangrur, within a period of one month, this petition will be deemed to have been dismissed.

A copy of the order will be communicated by the petitioner to the concerned authority.

Nothing mentioned in this order will be construed to be an expression of opinion on merits.

(M.M.S. BEDI)
JUDGE

February 7, 2017.

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Whether speaking / reasoned
Whether reportable:

Yes / No
Yes / No