

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP 3471 of 2017

Date of Decision: February 22, 2017

M/s Tajinder Paul Singh and sons
.....Petitioner

Vs.

UT of Chandigarh and ors.
.....Respondents

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

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Present:- Mr.B.S. Patwalia, Advocate
for the petitioner.

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

Petitioner through instant petition seeks a writ in the nature of mandamus directing the respondents to grant licence to the petitioner under Section 10 of the Punjab Agricultural Produce Market Act, 1961, for short 'the Act', for doing business of agricultural produce. The application for grant of licence has been dismissed vide order annexure P-5 dated June 18, 2012 on the ground that his application stood declined by the office of Market Committee vide letter dated May 23, 2008 (annexure P-2).

Counsel for the petitioner, referring to the letter dated May 23, 2008 (annexure P-2) submits that the application of the petitioner for grant

of licence had not actually been dismissed but it had been deferred till the reconstruction of the Vegetable sheds. The validity of order annexure P-5 has been challenged on the ground that it is unreasonable and discriminatory and contrary to the actual facts on the record.

I have heard learned counsel for the petitioner and gone through the letter dated May 23, 2008 and the order annexure P-5 dated June 18, 2012, declining the application of the petitioner for the grant of licence under Section 10 of the Act. The remedy of appeal under Section 10 (4) of the Act is available to the petitioner within a period of 30 days.

Counsel for the petitioner submits that the petitioner is entitled to invoke the extraordinary jurisdiction of this Court despite the availability of alternative remedy as the impugned order is, on the face of it, arbitrary and discriminatory and that the period of 30 days prescribed under the Act stands expired. Counsel for the petitioner has tried to explain that since the petitioner was in litigation with his tenant in SCF No. 27, Section 26 Chandigarh, he could not file appeal.

I have heard learned counsel for the petitioner and I am of the opinion that all the pleas of fact and law can be raised by the petitioner by filing an appeal under Section 10 (4) of the Act. If there is any factual error in the order annexure P-5, it would always been open to the petitioner to approach the Secretary, Market Committee to apprise the said authority that the order dated May 23, 2008 did not have the effect of dismissal of the application for licence but it had the effect of deferring the decision till the

re-construction of vegetable sheds. The matter can be reconsidered on account of error of fact which is patent on the record.

In view of two remedies already available to the petitioner, I deem it appropriate not to exercise the writ jurisdiction at this stage. Relegating the petitioner to avail any of the two remedies at this stage, this petition is disposed of as premature without prejudice to the rights of the petitioner. In case the petitioner opts to file an appeal under Section 10 (4) of the Act, the same would be entertained taking into consideration various circumstances which have been brought to the notice of this Court.

February 22, 2017
sanjay

(M.M.S.BEDI)
JUDGE

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