

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

CWP No.3873 of 2017

Date of Decision.19.04.2017

The Punjab State Cooperative Supply and Marketing Federation Limited,
Fatehgarh Sahib through its District ManagerPetitioner

Vs

The Financial Commissioner, Cooperation Punjab, Chandigarh and others
.....Respondents

Present: Mr. Naresh Gopal Sharma, Advocate for
Mr. Mehar Deep Singh, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The challenge in the writ petition is to the order dated 29.12.2009 (Annexure P-1) passed by Joint Registrar, Cooperative Societies, Patiala, 12.05.2016 (Annexure P-6) by the Financial Commissioner, Cooperation, Punjab vide which the revision petition filed by respondent Nos.4 to 6 has been accepted.

Mr. Naresh Gopal Sharma, learned counsel appearing on behalf of the petitioner submits that respondent No.4 was appointed as Operator in the year 1972 in Markfed and thereafter, got transferred to Amloh Branch in the year 1993. Wheat stock of the crop year 2000-2001 at Amloh was deteriorated and declared unfit for human consumption by FCI, resulting into loss of ₹41,57,696/-. On 22.08.2007, respondent No.4 was issued charge sheet, as he along with respondent Nos.5 and 6, caused the aforementioned loss and ultimately, the matter was taken up before the Arbitrator for recovery of the amount. The Arbitrator vide order dated 29.12.2009 (Annexure P-1) dismissed the claim of the Markfed.

The petitioner preferred an appeal before the Additional Registrar (Administration), Cooperative Societies, Punjab which was allowed vide order dated 20.05.2011 (Annexure P-3). Resultantly, the Markfed issued recovery notice to respondent Nos.4 to 6 vide letter dated 30.08.2011 (Annexure P-4).

Against the aforementioned order of 20.05.2011, respondent Nos.4 to 6 preferred revision petitions before the Financial Commissioner, Cooperation, Punjab, who, vide order dated 12.05.2016 (Annexures P-5 and P-6) allowed the revision petitions. The orders under challenge are not sustainable in the eyes of law, as it has been, ex facie, proved on record that the aforementioned officers were responsible for not maintaining the stock of the wheat properly and caused the loss. Had they been diligent in performing their duties, the loss could not have been there, as the wheat could have been found to be fit for human consumption, thus, urges this Court for setting aside the orders under challenge.

I have heard learned counsel for the petitioner, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Naresh Gopal Sharma, for, it is conceded position on record that as per the report of the District Manager, Markfed, Fatehgarh Sahib in the first special 21450 bags of wheat crop 2000-2001 were loaded. Apart from the aforementioned bags, 17930 bags of previous crop of 1999-2000 were also loaded. Thereafter, two more specials were provided on 18.04.2002 and 14.12.2002 in which 32770 and 38208 bags were loaded. All this shows that the movement of the stock was very slow and therefore, the officers cannot be held to be responsible. It is the higher authorities who were responsible for slow movement of stocks and therefore, I am of the

view that the finding rendered by the Financial Commissioner in accepting the revision petitions is perfectly legal and justified, much less, based upon preponderance of arguments raised by the parties and cannot be said to be passed without jurisdiction. No ground for interference is made out.

The writ petition is dismissed.

(AMIT RAWAL)
JUDGE

April 19, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No