

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-7827-2017

Date of Decision: April 19, 2017

Divya Jyoti Jagrati Sansthan

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Pankaj Jain, Advocate
for the petitioner.

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SURYA KANT, J.

The petitioner is a Society registered under the Societies Registration Act, 1860. The petitioner is stated to be a socio-cum-spiritual Society engaged in multi-faceted activities in the interest of millions of its followers all over the world. The petitioner-Society's principal establishment is located at Noormahal Town, District Jalandhar, though its Head Office is stated to be at Pitam Pura, New Delhi.

[2] In the instant writ petition, the petitioner-Society seeks quashing of the Notification dated 07.12.2016 which has been published by Government of Punjab, Department of Agriculture in purported exercise of its powers conferred under Section 7(2) of the Punjab Agricultural Market

Produce Act, 1961 (for brevity, 'the 1961 Act'), whereby the boundaries mentioned in Schedule have been notified as "Sub-Yard of New Grain Market, Noormahal". The total area of the land which has been notified as 'Sub-Yard of New Grain Market' measures 18 acres 3 kanals and 2 marlas. The land of the notified 'Sub-Yard of New Grain Market' abuts the premises of the petitioner-Sansthan. A further direction has been sought to direct the State of Punjab and authorities to consider the proposal submitted by the petitioner 'to shift and establish the Grain Market, Noormahal, Jalandhar, at an alternative place being provided by the petitioner'. The petitioner also seeks a restraint order against commencement of the business at the newly notified 'Sub-Yard'.

[3] We have heard learned counsel for the petitioner at a considerable length and gone through the record.

[4] The case has a chequered history. The petitioner had earlier approached this Court by way of CWP No.14921 of 2012 challenging the order passed by Deputy Commissioner, Jalandhar, whereby its objections against setting up of New Grain Market at Noormahal, District Jalandhar, were rejected. In that writ petition also the petitioner specifically claimed that it had submitted an alternative proposal to the State Government for setting up of New Grain Market at Noormahal. The afore-stated writ petition was disposed of vide order dated August 06, 2012 with a direction to the State Government to take a decision on the proposal said to have been submitted by the petitioner to set up the Grain Market at an alternative site.

[5] Even before the petitioner -Society filed the above-stated writ petition, one Amandeep Singh had also approached this Court through CWP

No.4167 of 2011 wherein he had sought a direction to the Punjab Mandi Board and the State Government 'to complete the construction work of the New Grain Market at Noormahal, District Jalandhar and make it functional'. It was specifically alleged by the said petitioner that the ongoing work of New Grain Market had been stopped at the instance of Divya Jyoti Jagran Sansthan, namely, the present petitioner. The said writ petition was also disposed of by this Court with a direction to the authorities to take necessary steps for redressal of petitioner's grievances.

[6] In the light of the two sets of directions issued by this Court, namely, in the first case to redress the petitioner's complaint regarding non-completion of construction work of the New Grain Market and in the second case filed by the petitioner not to set up the Grain Market at the chosen site and shift it to the alternative proposal, the State Government passed a self speaking order, dated 21.08.2013 (Annexure P-14). It was noticed by the State Government that grievance of the petitioner-Sansthan against setting up of New Grain Market was on the grounds that (i) the New Grain Market would be a security threat to the Head of Divya Jyoti Jagran Sansthan and his followers; (ii) it will create traffic problems; (iii) it will cause environment pollution; and (iv) there will also be a violation of Public Policy. The State Government took further notice of the fact that the petitioner-Sansthan was willing to exchange its land situated in village Uppal Jagir, Tehsil Noormahal, District Jalandhar. The matter was examined by a Committee of Officers and it was resolved that:-

“16. It is felt that the suggestions made by the Committee fully reflect on the ground situation, therefore, the Board

should review its proposal of New Mandi Township at Noormahal, Jalandhar in the manner that it undertakes only those activities of the New Mandi Township on the land in question which do not cause public nuisance, security threat or public disorder in the area. In case the Board requires some more land to achieve a quality development of the proposed New Mandi Township without any nuisance or threat to any one, it may do so, but it should first give its complete proposal, based on clearly stated reasons to the State Government. Such a report or proposal should be submitted to the State Government within 90 days. The Board should also give firm timelines for completing development of the New Mandi Township at Noormahal, Jalandhar.”

[7] It may be seen that the final decision taken at the State Government level was to go ahead with the construction of New Mandi Township at Noormahal though it was decided to ensure that it does not cause any public nuisance/security threat or public disorder in the area.

[8] For some invisible reasons, the State Government did not further start the construction of New Grain Market, due to which Amandeep Singh (writ petitioner in CWP No.4167 of 2011) had to initiate contempt of Court proceedings. In those contempt proceedings, the State Government filed an affidavit giving a specific time-bound schedule to set up the New Mandi Township. The Contempt petition was, accordingly disposed of though with liberty to revive the proceedings in the event of any deviation by the State Government.

[9] The record further reveals that COCP No.1173 of 2013 was sought to be revived with the allegation that the infrastructure in the New

Grain Market at Noormahal was still incomplete. The Chief Secretary, Government of Punjab himself filed an affidavit in those Contempt proceedings, eventually acknowledging the fact that the construction work was required to be completed in a time-bound manner.

[10] It is in this backdrop that now the impugned Notification dated 07.12.2016 notifying the establishment of 'Sub-Yard of New Grain Market at Noormahal' has been issued.

[11] The petitioner-Sansthan's grievances are the same as were noticed by the State Government in its order dated 21.08.2013, namely, that if the Sub-Yard/New Grain Market is set up on the adjoining land, it will lead to security threat to Dera followers as lakhs of people visit the Dera and that it will cause perpetual traffic problem besides environmental hazards. It is further contended by learned counsel for the petitioner that the State Government had, in fact, agreed in principal through its order dated 21.08.2013 not to set up the Grain market at the subject site, hence, it is estopped by its own act and conduct in notifying the Sub-Yard. He further urges that in the absence of any 'principal market yard' having been set up at Noormahal, there cannot be a 'Sub-Market yard' and such a decision of the State Government is in contradiction of Section 7(1) of the 1961 Act.

[12] We have given our thoughtful consideration to the submissions but do not find any merit therein. The State Government's decision dated 21.08.2013 has been already discussed in detail. There was rather a conscious decision to set up the New Mandi Township on the land in question but in such a manner that it does not cause any public nuisance or

Government has now decided to set up only a sub-Market, namely, a smaller market, only shows its commitment not to cause any inconvenience to the general public.

[13] The contention that principle of Estoppel would apply against the State is totally misconceived and misdirected. The State Government has acted in exercise of its statutory powers vested under the 1961 Act and no Estoppel applies against invoking such statutory powers. The contention that without there being a principal market yard, no sub-Market yard can be set up is only to be noticed and rejected. Section 7 of the 1961 Act deals with declaration of market yards and its sub-section (1) provides that for each notified market area there shall be one principal market yard and one or more sub-market yards, as may be necessary. The provision nowhere requires that the principal market yard and the Sub-Market yard must be located together at one and the same place. In fact, the very scheme of the statute requires that sub-Market Yard has to be away from the principal Market Yard. These markets are to cater the need of farmers and to provide them dedicated markets to sell their agricultural products. The 'Principal Market Yard' and its 'Sub-Yard', therefore, are bound to be located at different places to provide facilities at the door steps. The State Government has done favour to the petitioner by not setting up the 'Principal Market Yard' at Noormahal and only a sub-market yard has been set up. There is, thus, no violation of Section 7 of the 1961 Act, as suggested by the petitioner. It also stands established that the Sub-Yard is being set up in compliance to the directions issued by this Court in one or the other writ petition or those issued in exercise of contempt jurisdiction. The relief

sought in the instant writ petition is obviously in-conflict with those judicial orders. Still further, this Court cannot be oblivious of the fact that the principal market-yard or a sub-Market yard is essentially a service rendered to the farmers community who need a Government controlled and regulated market place for the sale of their products. The setting up of all such market yards is in larger public interest. It cannot be defeated merely because the petitioner perceives some inconvenience as a result of the market-yard activities.

[14] No case to interfere with the impugned order is made out.

[15] Dismissed.

**(SURYA KANT)
JUDGE**

April 19, 2017
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**(SUDIP AHLUWALIA)
JUDGE**

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |