

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

(115)

**CWP-935-2017 (O&M)**

**Decided on: April 20, 2017.**

**Prem Chand**

**.... Petitioner**

**Versus**

**The Managing Director, PUNSUP and others**

**..... Respondents**

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

Present: Mr. Ritesh Pandey, Advocate, for the petitioner.

Mr. I.S. Sidhu, Advocate, for respondents No. 1 and 2.

Mr. Gurcharan Dass, Advocate, for respondents No. 3 & 4.

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

Petitioner is working as Inspector in PUNSUP and is posted as Incharge of Darsing Singh Open Plinth, Gurdaspur. He has sought quashing of order Annexure P-1 dated 16.12.2016 and Annexure P-2 dated 22.12.2016 vide which respondent No.2/District Manager, PUNSUP, Gurdaspur has ordered the lifting of wheat of the year 2014-15 in favour of respondents No. 3 and 4 at the rate of Rs.11,090/- per Metric Tone.

The petitioner, through instant petition, points out that in view of the good quality of the stuff which has been sold as damaged wheat pursuant to tender dated 16.12.2016, was better than the quality determined. The petitioner has himself offered to purchase the wheat at the rate of 16,000/- per Metric Tone.

Apprehending large scale bungling, notice was issued to the respondents, simultaneously offering the petitioner to deposit an amount of Rs.75,36,000/- as the lot had been sold to respondents No. 3 and 4 for a total sum of Rs.40 lacs, at above said rate.

In order to test the bona fide of the petitioner, vide order dated 07.04.2017, a direction was issued that he would deposit sum of Rs.75,36,000/- with the Registrar and out of the amount deposited by the petitioner, a sum of Rs.50,00,000/- could be paid to the purchasers-respondents No.3 and 4 and remaining amount could be transferred to PUNSUP but despite two opportunities having been given to the petitioner, the petitioner has not deposited the amount.

However, learned counsel for the petitioner has come out with an offer of one Guru Kirpa Trading Company to the effect that it was ready to purchase the wheat stocks from the petitioner at the rate of 16,000/- per Metric Tone and to deposit sum of Rs.10,00,000/- as security.

I have taken into consideration all the circumstances and considered the rival contentions.

So far as the petitioner is concerned, he is not entitled to purchase the stocks in view of letter dated 20.01.2014 issued by Food Corporation of India in context to disposal of damaged/non-issuable wheat stocks stored with the State agencies of Punjab, laying down that the stocks will be disposed off only to the parties who are registered with FCI. The registered parties would be intimated about the tender "under postal certificate". The list of registered parties is also maintained by the Food Corporation of India.

The petitioner being an employee of PUNSUP, was also one of the members of the Committee along with the Manager (Quality Control), the Manager, (Accounts) and District Manager, PUNSUP, Gurdaspur, which is apparent from letter dated 04.10.2016 Annexure R-1/1 signed by

the petitioner in the capacity as Inspector of PUNSUP for District Gurdaspur. The petitioner himself being a member of Committee constituted for determining the quality of the wheat stocks maintained with Darshan Singh Open Plinth, Ramnagar, Gurdaspur, is estopped from challenging the rates at which the stocks of the damaged wheat has been sold to respondents No. 3 and 4.

Learned counsel for the petitioner has vehemently contended that the petitioner had not voluntarily signed as member of the Committee and had been forced to sign the same.

Taking into consideration all the above said circumstances, the petition deserves to be dismissed for the following reasons:

- (i) The petitioner being an employee of the PUNSUP and not entitled/eligible to purchase the stocks, the writ petition cannot be entertained;
- (ii) The petitioner does not have legally enforceable right to file writ petition;
- (iii) The stocks having already been sold to respondents No. 3 and 4 under the recommendation of the Committee of which petitioner is member, the writ petition is not maintainable;
- (iv) The petitioner has not deposited the amount as directed by this Court vide interim order; and
- (v) The offer of the petitioner through M/s Guru Kirpa Trading Company for purchasing the stocks at the rate of Rs.16,000/- per tone is not acceptable and it appears to be mala fide.

The petition is dismissed for the aforesaid reasons.

Interim order is vacated.

Nothing said in this order will prejudice the rights of any party to challenge the auction, if permissible under law, as the quality and rate of subject matter i.e. wheat stocks, is a disputed question of fact which cannot be determined by this Court.

(M.M.S. BEDI)  
JUDGE

April 20, 2017  
*harsha*

|                            |        |
|----------------------------|--------|
| Whether speaking/reasoned: | Yes/No |
| Whether reportable:        | Yes/No |