

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 15.10.2019****CWP No.1199 of 2017 (O&M)**

Food Corporation of India

...Petitioner

Vs.

Market Committee, Bagha Purana, Moga & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINAPresent: Mr. Sumeet Goel and Mr. Manav Bajaj, Advocates,
for the petitioner.Mr. Sanjeev Sharma, Advocate,
for respondents No.1 to 3.**RAJIV NARAIN RAINA, J. (ORAL)**

1. This petition has been filed to get rid of demurrage charges claimed by the Market Committee, Bagha Purana, District Moga against the petitioning Food Corporation of India (FCI) for delay in lifting paddy stock from the market yard and blocking storage space.

2. The cause of action goes back to the khariff season 1998-99. The history of the litigation between the parties need not detain the Court since this Court after hearing learned counsel for the parties has found no substance in this petition based on disputed questions of fact and the claim based on documents (Annex P-7 colly) being just two floating letters from the Quality Inspectors without any link correspondence to prove fault or inadequacy of transport of goods from the market yard. The first letter is an undated one from the Quality Inspector, Bhalaur, which does not even bear the name of the author who signed it, complaining of adverse conditions of

roads leading to the market yard making it difficult for trucks to venture to lift the paddy stock lying on plinths. The paddy had been purchased by the FCI and it was their duty to transport it within time for distribution as per the lifting policy. The second document is a letter by one Parashu Ram, Quality Inspector, Mandi Samalsar dated 30.03.1999 written after months of the season running over. This letter from the Quality Inspector refers to the storage charges claimed by the Secretary, Market Committee, Bagha Purana while raising an intriguing question to the FCI; "Whether FCI should claim the damages occurred due to rains from Market Committee for non providing of Pakka Yards".

3. In none of the proceedings before the Authorities have the facts been determined on the basis of evidence of the then prevailing conditions in the market yard in the year 1999. The Market Committee issued notice dated 29.10.1998 to the FCI informing them that paddy purchased by the procurement agencies is lying in huge quantities in the Sub-yard of the Market Committee, Bagha Purana and in other purchase centres, which had not so far then been lifted from the place of purchase. With the closing of kharif season 1998, the FCI was intimated that the purchased paddy be got lifted at the earliest but they failed to do so. In the event of delay, Market Committee was authorized to recover demurrage @ 25 paise per unit per day under Market Committee Bye-law 11(7).

4. In addition to the above, it was also requested by the Market Committee that payment of the purchased paddy should be made to the commission agents immediately.

5. It appears that the Market Committee acted within the law by serving notice and raising a claim of Rs.3,38,500/- against the petitioner on

account of demurrage charges. It is not for this Court in proceedings under Article 226 of the Constitution to invite evidence on the physical conditions prevailing at the market yard 20 years ago and proceed to undo the recovery. Considerable delay in lifting stock belonging to the FCI from the sub yards of the Market Committee, Bagha Purana by the corporation itself cannot free them of the liability to pay for storage space, causing financial loss to the Market Committee which could otherwise be used for its legitimate business. The price that the FCI pays is for the delay backed by Bye Law 11 (7).

6. Thus, I find no cogent reason coming forth from the existing record to interfere in this matter. Consequently, the petition being devoid of merit is ordered to stand dismissed. The recovery order is maintained.

15.10.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No