

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
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CWP-36338-2019

Date of decision: 16.12.2019

**THE PUNJAB STATE CO-OPERATIVE SUPPLY AND MARKETING
FEDERATION LTD., MARKFED, FEROZEPUR**

...PETITIONER

V/S

**ADDITIONAL CHIEF SECRETARY CUM FINANCIAL
COMMISSIONER COOPERATION PUNJAB CHANDIGARH AND
OTHERS**

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

**Present: Mr. Karan Garg, Advocate,
for the petitioner.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court praying for quashing of the order dated 26.07.2018 (Annexure P-3) passed by the Additional Chief Secretary-cum-Financial Commissioner, Cooperation, Punjab-respondent No. 1 in revision petition of the petitioner, order dated 10.10.2016 (Annexure P-2) passed by the Registrar, Co-operative Societies, Punjab-respondent No. 2 and the order dated 05.08.2015 (Annexure P-1) passed by the Additional Registrar (Admn.), Co-operative Societies, Punjab-respondent No. 3, whereby the appeal preferred by the petitioner has been dismissed.

It is the contention of the learned counsel for the petitioner that the shortage of foodgrain i.e. wheat, when the physical verification of the stock was conducted on 17.08.2006 to 23.08.2006, was sought to be recovered from the private respondents by way of arbitration proceedings

which were initiated. The said arbitration proceedings were dismissed vide order dated 05.08.2015 (Annexure P-1) by respondent No. 3, appeal against which preferred by the petitioner, has also been dismissed and so has the revision petition been dismissed. He contends that the authorities, while passing the impugned orders, had failed to appreciate that the stocks were in possession of the private respondents and, therefore, they were the custodians of the said foodgrains i.e. wheat stock, which was, on actual physical verification, found to be short and thus, the arbitration proceedings were bound to be accepted. The award passed by the Arbitrator is unsustainable and so are the orders in appeal and the revision as passed by the authorities. He, thus, prays that the writ petition be allowed by setting aside the impugned orders.

I have considered the submissions made by the learned counsel for the petitioner and with his assistance, have gone through the impugned orders but do not find myself in agreement with the contentions, as have been raised by the counsel for the petitioner, keeping in view the fact that it is an admitted position that although the private respondents were initially the custodians of the foodgrains i.e. wheat but the handing over and taking over of foodgrains i.e. wheat had taken place on 10.08.2006. They were, therefore, liable for any of the shortage which would have occurred prior thereto. Once the taking and handing over had been carried out, the subsequent shortage, if any, cannot be attributed to them.

As per the admitted facts, the handing and taking over of the stock had taken place on 10.08.2006 and the physical verification of the stock was carried out between 17.08.2006 to 23.08.2006 which is of a subsequent date, for which the private respondents cannot be held liable.

The award passed by the Arbitrator being based upon the records, which have been produced, cannot be faulted with. The appellate and the revisional authority has also rightly proceeded to not accept the claim as has been projected by the petitioner.

There being no illegality in the orders, which have been passed by the authorities below which have been challenged by the petitioner, the writ petition stands dismissed.

December 16, 2019

**(AUGUSTINE GEORGE MASIH)
JUDGE**

pj

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No