

CWP-849-2019

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

CWP-849-2019

Date of Decision: 15.01.2019

Jita Ram

... Petitioner

vs.

Financial Commissioner (Cooperation), Punjab & Ors

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr.Ajay Mahajan, Advocate
for the petitioner.

HARSIMRAN SINGH SETHI, J

The present writ petition has been filed by the petitioner challenging the order dated 29.02.2016 (Annexure P9), passed by respondent No.3, holding the petitioner guilty of the charges of shortage of the wheat stock. By the said order, two officers, namely, Rachhpal Singh and petitioner herein, namely, Jita Ram, have been held guilty and recovery has been imposed upon them.

Against the said order, an appeal bearing No.111 of 2016 (Annexure P10) was preferred by the petitioner before the Additional Registrar (Division), Cooperative Societies, Punjab, Chandigarh. The said appeal was rejected by the Appellate Authority on 26.05.2017. Thereafter, both the orders dated 29.02.2016 and 26.05.2017 (Annexures P9 & P10, respectively) were challenged by filing a revision petition. The said revision has also been dismissed by Additional Chief Secretary-cum-Financial Commissioner, Punjab, Chandigarh on 27.09.2018 (Annexure P12). The order dated 29.02.2016, the appellate order dated 26.05.2017 and the revisional order dated 27.09.2018 are under challenge before this Court.

The contention which has been raised by learned counsel for the petitioner is that the petitioner has been wrongly held guilty for the shortage of the wheat stock even though the wheat stock was not entrusted to him and the same was not in his custody and it was only Rachhpal Singh, who was sole custodian of the said wheat and, therefore, the orders, which have been passed against the petitioner and impugned in the present writ petition, are factually incorrect and liable to be set aside.

I have heard learned counsel for the petitioner and gone through the record alongwith his assistance.

The petitioner had raised this argument before the Appellate Authority that the petitioner was only in-charge of oil, pesticides, feed, fertilizers etc. only.

Counsel for the petitioner argued that there was no entrustment of wheat stock to the petitioner and the same was only within the sole custody of Rachhpal Singh, who was the Branch Manager. The said argument, had been considered by the Appellate Authority and the finding has been recorded that the petitioner as well as Rachhpal Singh, Branch Manager, were joint custodian of the wheat stock. The said finding had been recorded on the basis that both the petitioner and Rachhpal Singh have signed the shortage during physical verification of the stock. Further, both, the petitioner and Rachhpal Singh gave in writing that they will complete the shortage within a period of one week after the same was physically verified. Once this finding has been recorded, which has not been controverted by the petitioner while filing the revision petition, the petitioner is estopped from raising the said argument, which deals with the factual aspect. Factual aspect has attained finality after the revision petition was dismissed by the competent authority on 27.09.2018.

CWP-849-2019

-3-

Before the Revisional Authority, an argument was raised that the petitioner was forced to sign the physical verification report. The said argument has also been dealt by the Revisional Authority, wherein, it has been recorded that there is no letter written by the petitioner to any authority about obtaining of his signatures forcibly by the authority at the time of physical verification. It has been recorded that the said argument is an afterthought to escape from the liability.

Further, this Court is not sitting as an Appellate Authority over and above the authorities, which have decided the claim of the petitioner, whose orders have been impugned in the present writ petition. No irregularity has been pointed out by learned counsel for the petitioner during the course of arguments. There is no averment that the opportunity was not given to the petitioner to defend himself or there was any departure from the required procedure of law before recording the said finding.

This Court cannot go into the factual aspects, which have been recorded by the authorities below, as the same has not been shown to be perverse.

In view of the above, no interference is called for in the present case and the same is, hereby, dismissed.

15.01.2019
smriti

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No