

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

CWP No. 7327 -2020 (O&M)

**Date of Decision: May 15, 2020
(Thru VC)**

Hindustan Fardirect Ingredients Pvt. Limited

..... Petitioner

VERSUS

State of Punjab and others

.... Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present Mr. Sunil Garg, Advocate
 for the petitioner.
 Mr. Sahil Sharma, DAG, Punjab.

JAISHREE THAKUR, J.(Oral)

By way of the present petition, the petitioner is seeking permission for opening three collection centres in District Fazilka for procurement of waste agricultural produce i.e. self-aborted small oranges which is a perishable commodity and has medicinal qualities. A challenge has been made to Order dated 18.04.2020 whereby respondent No. 3 has declined to allow the petitioner to open the Centres in view of the pandemic COVID-19 and representations received.

In brief the facts are that the petitioner is a company incorporated on 03.04.2018 under the Companies Act 2018 for procuring horticultural waste i.e. self-aborted small oranges (KER) which is to be used for medicinal purposes. In furtherance of its objectives, the petitioner-Company opened three collection centres in District Fazilka. Due to

pandemic COVID -19 situation and a curfew/lockdown having been imposed in the State of Punjab, business was at a stand-still which resulted in the petitioner giving a representation to the Deputy Commissioner, Fazilka seeking permission to open the collection centres at Fazilka for procurement of self-aborted small oranges. The representation was duly considered and permission was granted by respondent No. 3 to open the collection centres vide order dated 14.04.2020, however, the permission granted was subsequently revoked vide order dated 18.04.2020 which resulted in the petitioner giving a representation to respondent No. 3 for re-considering its order and for grant of permission to open the collection centres. Since no order had been passed, the present writ petition has been filed.

Learned counsel for the petitioner contends that the small oranges are used for preparing medicine which would also be extremely useful in treating the COVID-19 virus/disease. It is argued that without any cogent reason, the permission granted vide an order dated 14.04.2020 has been withdrawn. It is submitted that the farmers are willing to sell the products to the petitioner-Company and in fact the petitioner-Company has already paid an amount of approximately Rs. 40 lacs to farmers who had brought their produce to the petitioner in Una, Himachal Pradesh. Notice of motion had been issued by a detailed order dated 12.05.2020, pursuant to which a reply had been filed.

Mr. Sahil Sharma, learned counsel for the respondent-State submits that even though permission had been allowed to the petitioner vide

an order dated 18.04.2020, the same was subsequently withdrawn as farmers of 20 villages of District Fazilka immediately requested the officials of the Horticulture Department to withdraw the same on the various grounds mentioned below:

- 1. The farmers are busy in harvesting of wheat crop and their activities are very restricted due to prevailing lockdown in the country, so they are unable to take care of the kinno plants at the time of procurement of horticulture waste.*
- 2. Since the police is busy due to COVID-19, so there are chances of theft.*
- 3. From the procurement of horticulture waste by the petitioner, there is negligible benefit to the farmers. The farmers use the small oranges (KER) as manure.*
- 4. In the previous years, the farmers found that under the garb of the procurement process, the labourers plucked fresh fruits from the kinno plants, thus causing a huge loss to the farmers.*

Mr. Sahil Sharma, learned State- counsel submits that it is only on account of the representation that had been received by the department from various farmers that the permission given was immediately revoked.

I have heard learned counsel for the parties and find that there is no cogent reason forth-coming as to why the permission given was subsequently withdrawn. Admittedly the petitioner herein is engaged in the business of procuring small oranges for preparing medicines and had been

given permission to open collection centres in Villages Sittgunno, Alamgarh and Pattrewala in District Fazilka and the Deputy Director Horticulture had been authorised to issue necessary passes in this regard. By an order dated 18.04.2020, this permission was unilaterally withdrawn primarily on the ground that representations had been received from a certain segment of farmers that there may be chances of theft of 'kinno' as availability of labourers is less and the farmers are busy due to the harvesting season. This reasoning does not seem to carry much weight. It is not as if the petitioner herein is going to collect the kinnos physically from the gardens of the farmers and in fact it is the farmer himself who is to bring his produce to the collection centres. The letter dated 17.04.2020, by which permission had been sought to collect small oranges for the Pharmaceutical Industry had clearly specified that the procedure of the collection centres would be as follows:

- *Farmers will bring fruit in their own vehicles to our collection centres.*
- *At a time only one farmer vehicle will be off loaded inside the centre premises.*
- *Our collection team members will be wearing masks and keeping safe distance as per prescribed health norms.*
- *Our collection centre team members will unload the fruit from the farmer's vehicles and weigh them digitally.*
- *Farmers will be issued bills/invoices with their Aadhar details of the fruit received and the payments will be transferred online in their bank accounts within 24 hours.*

Therefore, the question of any theft being committed by the

petitioner would not arise. Even otherwise during the COVID-19 pandemic lockdown, certain restrictions have been lifted and some shops/markets etc. have now been permitted to remain open within the State of Punjab i.e. from 7.00 a.m. to 7.00 p.m. on daily basis.

This Court, while dealing with the present petition also takes note of the fact that permission has been granted to several centres for procurement of wheat etc. while further taking into account the fact that the office of the Deputy Commissioner, Fazilka has granted relaxation during the curfew/lockdown period for waxing/movement of kinnos/horticulture items/fruits/cold storage daily between 7.00 a.m. to 7.00 p.m. by its order dated 03.05.2020. Therefore, if movement of kinnos and horticulture items/fruits has been permitted by an office order dated 03.05.2020, there can be no cogent reason for not permitting the petitioner herein to open his collection centres. It is for the farmers to bring their produce to these Centres. It is well settled principle of law that any executive order should be reasonable, legitimate, rational, which is inherently lacking in the order dated 18.04.2020.

Consequently, the instant writ petition is allowed and the order dated 18.04.2020 is hereby set aside and the petitioner is permitted to open the collection centres while adhering to all precautionary measures to be maintained during the COVID-19 pandemic.

Ma y 15, 2020

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(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No