

2023:PHHC:122097

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CWP-2874-2021 (O&M)
Date of Decision:-15.9.2023

The Punjab State Cooperative Supply and Marketing Federation Limited

... Petitioner

Versus

R.N. Sharma and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Jasvir Kaur, Advocate,
for the petitioner.

Mr. Shiv Kumar, Advocate,
for respondents No.1 to 4.

Mr. Aman Dhir, DAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner assails order dated 19.8.2020 (Annexure P-1) passed by learned Additional Registrar(D), Cooperative Societies, Punjab, Chandigarh, vide which an appeal filed by the petitioner challenging order dated 17.5.2017 (Annexure P-2) passed by Joint Registrar, Cooperative Societies, Patiala Division, Patiala dismissing the petition filed by the petitioner under Section 54 of Punjab Cooperative Societies Act, 1961, has been dismissed.

2. A few facts necessary to notice for disposal of this petition are that respondents No.1 to 4 had been serving the petitioner – The Punjab State Cooperative Supply and Marketing Federation Limited. The petitioner – The Punjab State Cooperative Supply and Marketing Federation Limited initiated proceedings in terms of provisions of Section 54 of Punjab Cooperative Societies Act for recovery of an amount of Rs.9,83,38,716/- alongwith interest @18% per annum on the basis of a special audit report for the year 2011-2012 to the effect that respondents No.1-4, who had been working during the years 2008-2011 at Samana Branch, were Incharge of the stocks of petitioner – federation and that on account of their negligence and on account of misappropriate and fraud they have caused loss to the petitioner – federation to the tune of Rs.9,83,38,716/- due to damage and not having properly maintained the stocks. Learned Joint Registrar turned down the prayer of petitioner vide order dated 17.5.2017 while observing as under:

“..... Whereas special for movement of stock, storing of wheat in open plinth all these proceedings are not to be made by respondent No.1 to 4, from which it goes to prove that Markfed has not taken care regarding storing of stock as to which stock has got wet in rain its delivery may be made on priority basis. From the above it goes to prove that the loss which has been suffered by Markfed same has been occurred due to storing of wet wheat stock for long duration and due to not lifting of the same timely and storing wet wheat in open plinth. Respondent parties are not responsible for these issues. So responsibility of above mentioned respondent No.1 to 4 cannot be affixed because no negligence of them is made out in concern of suffering loss by the petitioner.....”

3. The petitioner challenged the aforesaid order dated 17.5.2017 (Annexure P-2) by way of filing a statutory appeal in terms of provisions of Section 68 of Punjab Cooperative Societies Act, 1961 but the findings as recorded by the

Joint Registrar were affirmed and the appeal was dismissed vide order dated 19.8.2020 (Annexure P-1). Feeling aggrieved by the said order, the instant petition has been filed.

4. Learned counsel representing the petitioner - federation submitted that once the audit report had clearly held respondents No.1-4 alongwith the District Manager responsible for having caused loss by not having properly maintained the stocks, there was no occasion for not having ordered recovery of the said amount from respondents No.1 to 4.
5. Learned State counsel as well as learned counsel representing respondents No.1 to 4 have, however, opposed the petition and have submitted that there is no infirmity in the impugned order.
6. This Court has considered rival submissions addressed before this Court.
7. A perusal of the findings as recorded by Joint Registrar in order dated 17.5.2017 (Annexure P-2) clearly shows that the loss had been suffered as the wheat stocks were damaged on account of rain and on account of the fact that the entire stock had been stored in an open plinth. The petitioner cannot be held responsible for damage to stocks when the same is stored in an open place and there is no protection from rain to such stocks. The excessive rain is a natural calamity and the said circumstances cannot be said to be under control of humans. There is nothing on record to show that as to how the private respondents had defaulted in preventing damage to wheat stock stored in open. In these circumstances, learned Joint Registrar having discarded the report of auditor, cannot be said to have acted in any perverse manner. This Court does not find any infirmity in the findings as recorded by learned Joint

Registrar and as upheld by learned Additional Registrar (D). Finding no merit in the instant petition, the same is hereby dismissed.

15.9.2023

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No