

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-8291-2023
Date of decision: 21.04.2023

MANISHA AND OTHERSPetitioners
VERSUS

THE APPELLATE AUTHORITY, THE HARYANA
STATE WAREHOUSING CORPORATION, PANCHKULA & ANOTHER
.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Tahaf Bains, Advocate
for the petitioner.

Mr. Padamkant Dwivedi, Advocate
for respondents.

VINOD S. BHARDWAJ, J. (Oral)

The instant petition has been filed under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of mandamus directing the respondents-Corporation not to effect recovery from the petitioners pending the decision of the application for stay made in the appeal dated 06.04.2023 (Annexure P-2) against orders dated 23.02.2023/29.03.2023 (Annexure P-1) passed by the respondent No.2.

Learned counsel appearing on behalf of the petitioners contends that the proceedings were initiated against the petitioners on account of loss suffered by the Corporation. They were charge-sheeted and found guilty

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with an order to effect recovery on account of loss suffered. It is submitted that the writ petition bearing CWP No. 27725 of 2013 is already pending before this Court wherein the question regarding moisture content of storage of wheat is under consideration and in case the said writ petition is allowed, the ratio of the said judgment would be applicable to the facts of the case of the petitioners herein. An appeal has been filed and the same is pending consideration therefore, any recovery which is proposed to be made, should be stayed during the pendency of the appeal. He further submits that in similar situation, certain writ petitions have been disposed of staying recovery pending the decision on the statutory appeal (see: 29214 of 2022 decided on 19.12.2022 and CWP No. 29755 of 2022 decided on 22.12.2022).

Notice of motion.

Mr. Padamkant Dwivedi, Advocate, appears & accepts notice on behalf of the respondents. He fairly submits that similar writ petitions were filed and disposed of with a direction to not make recoveries pending an appeal.

I have heard learned counsel appearing on behalf of the respective parties and have gone through the documents appended alongwith present writ petition.

In view of the limited prayer made for staying of recovery from the petitioners during pendency of the statutory appeal, this Court deems it appropriate to disposed of the instant writ petition as it being an admitted fact that the petitioners herein have already filed statutory appeal which is

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pending decision and till the time the same is decided, no recovery should be effected from the petitioners.

Disposed of accordingly.

(VINOD S. BHARDWAJ)
JUDGE

APRIL 21, 2023
Vishal Sharma

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