

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

202

CWP-12378-2015 (O&M)

Date of decision:- 05.12.2023

BHARTI KISAN UNION PUNJAB

... Petitioner

Vs.

STATE OF PUNJAB & ORS

...Respondents

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

Present: Mr. M.S. Chauhan, Advocate for
Mr. R.S. Bains, Advocate for the petitioner.

Ms. Niharika Sharma, Asstt. A.G. Punjab.

Mr. Vikas Singh, Advocate for respondent No.4.

None for respondent No.5.

VINOD S. BHARDWAJ, J. (Oral)

The present petition has been filed for issuance of writ and directions to the Cane Commissioner for grant of interest on delayed payment as provided in Sugar-Cane Control order, 1996 and for a further direction to the respondents to pay the interest @ 10% per annum.

Counsel for the petitioner contends that the issue involved in the present petition has already been decided by this Court in a bunch of writ petitions in CWP No. 3098 of 2020 titled as '***Sukhjit Singh Vs. Nakodar Co-operative Sugar Mills Ltd. and others***' vide judgment dated 14.11.2022.

Counsel for the respondent No.4 however contends that the said matters were filed by the individuals whose payments had not been released whereas the present case has been filed by the Union, for and on behalf of its member farmers, hence, the individual claim cannot be discerned. He however does not dispute that the issue stands decided.

He however also acknowledges that once a legal question has been answered, the factual aspects and dues can be determined by the Cane Commissioner and appropriate determination can be done for each cane grower, as per law.

Even otherwise, the entire data as regards the cane sold by the farmers along with date of actual release of payment is already in possession of authorities. The calculation of respective entitlement is thus a ministerial exercise to be undertaken by the authorities.

A registered body is not prohibited in law to file a representative claim for and on behalf of its members. Thus, merely because the Kissan Union has approached this Court cannot be the basis to conclude that the petition should be declined or there are disputed questions of fact. The petition is more about determination of legal right to claim interest rather than determining any question of fact. The objection is thus untenable for the above reasons. A dispute as to fact would arise only when a factual aspect is raised for determination and adjudication. The said individual claim and their share of interest, if any, is yet to be determined by the authorities and any individual factual dispute may arise only thereafter. The difference thus sought to be pointed out is neither material nor real.

Moreover, it is rather a settled position in law that once a legal position has been laid down in rem, the authorities should consider all cases in accordance thereto instead of forcing each person to come in an independent petition, to avoid multiplicity of litigation and for larger public interest.

It would be imperative that the cane growers (farmers) approach the Cane Commissioner, Punjab with their claims (individually/collectively) and for him to decide the same as per the judgment already pronounced.

The issue regarding the entitlement of the Sugar Cane Growers having already been considered by this Court in CWP No. 3098 of 2020 titled as '*Sukhjit Singh Vs. Nakodar Co-operative Sugar Mills Ltd. and ors.*' decided on 14.11.2022 entitling the sugarcane growers to interest on delayed payment, the present petition is accordingly disposed of in terms of the aforesaid judgment in CWP No. 3098 of 2020 titled as '*Sukhjit Singh Vs. Nakodar Co-operative Sugar Mills Ltd. and ors.*' decided on 14.11.2022.

Miscellaneous application, if any, also stands disposed of.

05.12.2023
pooja saini

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No