

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

(225)

LPA-793-2021 (O&M)

Decided on: 25.01.2023

Himmat

.....Appellant(s)

Versus

State of Haryana & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present:- Mr.Jamshed Ahmed, Advocate, for the appellant.

Mr.Ankur Mittal, Addl.A.G., Haryana
and Mr.Saurabh Mago, AAG, Haryana.

G.S. Sandhawalia, J. (Oral)

The present Letters Patent Appeal is directed against the order of the learned Single Judge dated 10.08.2021 passed in CWP-7201-2021 titled *Himmat Vs. State of Haryana & others*, whereby the writ petition was dismissed in limine by the learned Single Judge.

The learned Single Judge noticed that since the surprise inspection was conducted on 31.10.2021 on the complaint received against the appellant that he was not supplying the rations in accordance with the entitlement and 20 liters of mustard oil was found in excess, declined to interfere in the order dated 07.01.2021 (Annexure P-4) wherein the District Food Civil Supplies & Consumer Affairs Controller, Nuh had forfeited the entire deposit amount of the depot holder and cancelled the ration depot. Resultantly, by the dismissal of the writ petition, the order passed in appeal by the Deputy Commissioner, Nuh dated 05.03.2021 (Annexure P-6) was also upheld.

Counsel for the appellant has submitted that the depot was allotted in the year 2009 and for a period of more than 11 years, there was no other complaint against the appellant. It is submitted that the extreme

stop of cancelling the ration depot and also directing forfeiture of the

security amount was totally disproportionate to the complaints and the allegations made against him. It is submitted that nothing has been recorded that on account of the excess stock of 20 liters of mustard oil, the appellant has misused his authority as a licence holder. It has also been argued that the alleged violation of Rule 1 of the Haryana Public Distribution System (Licensing & Control) Order, 2009 further provides a staggered format of punishment, the first step is for forfeiture of the security amount and the second step was regarding both forfeiture of the security amount and cancellation of the ration depot.

It is, thus, submitted that a lesser punishment could have been imposed rather than taking the extreme step of cancelling the ration depot. It is rightly submitted that the said action is like using a hammer to swat the fly and we are in agreement to the said submission. Resultantly, we allow the present appeal and set aside the orders dated 07.01.2021 (Annexure P-4), dated 05.03.2021 (Annexure P-6) and order dated 10.08.2021, passed by the learned Single Judge.

Keeping in view the above, respondent No.3 shall pass a fresh order which is in consonance with the contentions noted above. In view of the above, status quo will be restored regarding the allotment of the ration depot. In case the depot has been allotted to any third person, the allotment of the said person shall not be prejudiced, in any manner.

(G.S. SANDHAWALIA)
JUDGE

25.01.2023

Sailesh

(HARPREET KAUR JEEWAN)
JUDGE

Whether speaking/reasoned : Yes/No.

Whether Reportable : Yes/No

