

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-2194-LPA-2022 in/and
LPA-916-2022 (O&M)
Date of Decision: 08.02.2023

Dinesh Kumar

.....Appellant

Vs.

State of Haryana and others

.....Respondents

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

Present: Mr. Ishnoor Singh, Advocate, for
Mr. Vikram Singh, Advocate,
for the applicant-appellant.

G.S.SANDHAWALIA, J. (ORAL)

CM-2195-LPA-2022

Application for exemption is allowed, as prayed for.

CM-2194-LPA-2022

By this application, the applicant-appellant seeks condonation
of delay of 85 days in filing the appeal.

In view of the averments made in the application, which is
duly supported by an affidavit of the appellant, the application is allowed
and the delay of 85 days in filing the appeal is hereby condoned.

LPA-916-2022 (O&M)

The present Letters Patent Appeal seeks consideration of the
order of the learned Single Judge, dated 23.05.2022, passed in CWP-
24103-2021, whereby the learned Single Judge has refused to interfere in
the orders of the authorities below, whereby the license of the appellant
issued under the Public Distribution System Control Order, 2009, was

cancelled on 15.06.2020 (Annexure P-1) and security deposited by the appellant was also forfeited.

The learned Single Judge noticed that as per the enquiry, the appellant had diverted the grains meant supply in the public distribution system for personal benefit and the licence was terminated after grant of opportunity to show cause. Resultantly, the appeal had been dismissed on 30.09.2020 (Annexure P-4) on that account.

The argument which has been repeated here, was also addressed before the learned Single Judge, that there were affidavits by the beneficiaries showing that there was no misappropriation. The same has been taken into consideration by the learned Single Judge while noticing that the mere submission of affidavits is not sufficient ground to displace the finding of misappropriation recorded in an enquiry. The enquiry not having been shown to be illegal in any manner the writ petition was accordingly, dismissed.

Learned counsel for the appellant has referred to affidavits dated 25.06.2020 (Annexure P-2) which in our considered opinion, have been obtained after the cancellation of the licence having been ordered on 15.06.2020 (Annexure P-1) and the security forfeited. It is apparent that these affidavits were obtained only to avoid the effect of the order and it a case of closing the door after the horse is bolted. A perusal of the enquiry report would go on to show that during the time when the COVID-19 was on its peak in the country in the month of April 2020, the free ration which was to be distributed was being misappropriated by the appellant by syphoning of at least 50% of what was due. 41 persons had complained on

the basis of which the enquiry had been conducted. The impugned order dated 15.06.2020 (Annexure P-1) further goes on to show that there was differences between the distribution according to online record and according to the card holder statement. As per online record, 40 kgs of wheat was distributed to one Reena, wife of Anoop, category OPH, ration card No. 066001743166, whereas as per her card's statement, only 20 kgs of wheat has been received in the month of April 2020. Similarly, as per online record, 60 kgs of wheat has been distributed to one Nirmala, wife of Dharambir, category OPH, ration card No. 066001743247, but only 30 kgs of wheat has been received as per the her card's statement. Many other persons statements show the same manner of operation.

Accordingly, in a careful and planned manner, 50% of the wheat was misappropriated. The show cause notice was given and hearing was also given to the appellant on 08.06.2020 and eventually the impugned order was passed on 15.06.2020 (Annexure P-1).

Once the appeal had been dismissed on 30.09.2020 (Annexure P-4), the appellant had approached this Court and had got another order passed in CWP No. 1745 of 2021 on 27.01.2021 (Annexure P-5), to consider his case afresh on a representation in view of an order passed in another case. The appellate authority again reconsidered the whole issue in a proper manner and passed an order dated 22.03.2021 (Annexure P-7) upholding the earlier order by noticing that by withdrawing the affidavits by the complainants would not be a sufficient ground for setting aside the enquiry report by which it has been observed that the wheat had not found to be complete.

In such circumstances, we are of the considered opinion that the appellant misused the responsibility which has been given to him to distribute the ration which was required when the country was suffering from the lockdown and the appellant was busy generating profit for himself.

In such circumstances, the extra ordinary writ jurisdiction was rightly not exercised by the learned Single Judge.

Consequently, the appeal is dismissed.

(G.S. SANDHAWALIA)
JUDGE

February 08, 2023
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	No