

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of decision: 18.01.2023

CWP-27980-2019

PUNJAB KISAN UNIONPetitioner

VERSUS

FOOD CORPORATION OF INDIA AND OTHERSRespondents

(2) CWP-29716-2019

BHARTI KISAN UNIONPetitioner

VERSUS

FOOD CORPORATION OF INDIA AND OTHERSRespondents

(3) CWP-37040-2019

M/S RAM KISHAN AND BROTHERSPetitioners

VERSUS

CHANDIGARH ADMINISTRATION AND OTHERSRespondents

(4) CWP-34557-2019 (O&M)

AARHTIA ASSOCIATION PUNJAB (REGD)Petitioner

VERSUS

STATE OF PUNJAB AND OTHERSRespondents

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

Present:- Mr. Sunil Chadha, Senior Advocate with
Mr. Alok Mittal, Advocate and
Mr. Saurav Kanojia, Advocate
for the petitioner in CWP-34557-2019.

Mr. Charan Jit Sharma, Advocate
for the petitioner in CWP-27980-2019.

None for the petitioner in CWP-27916-2019

None for the petitioners in CWP-37040-2019

Mr. Saurav Verma, Addl. A.G. Punjab.

Mr. Satya Pal Jain, Addl. Solicitor General of India with
Ms. Amrita Singh, Advocate
for respondent-Union of India in CWP-34557-2019;
CWP-27980-2019 & CWP-29716-2019.

Mr. Harshit Jangra, Advocate for
Mr. Anil Mehta, Sr. Standing Counsel
for respondent-U.T. Chandigarh.

Ms. Brea Sandhu, Advocate for
Ms. Deepali Puri, Advocate
for respondent No.4-Pungrain in CWP-34557-2019.

Mr. T.S. Sidhu, Advocate
for respondent No.5 in CWP-34557-2019.

Mr. Aman Sharma, Advocate
for respondent No.6 in CWP-34557-2019.

Mr. K.K. Gupta, Advocate
for respondent-Food Corporation of India in all cases.

Mr. Abhinav Gupta, Advocate
for respondent No.7 in CWP-34577-2019.

VINOD S. BHARDWAJ, J. (Oral)

The present order shall dispose of 04 writ petitions as counsel
for the parties agree that the controversy involved in the present set of
petitions can be decided by a common order.

2. The facts are noticed from CWP-34557 of 2019 titled “*Aarhtia*

Association Punjab (Regd.) versus State of Punjab & Others". The challenge in the writ petition is to the letter dated 16.09.2019 (Annexure P-6) and letter dated 18.10.2019 (Annexure P-8) issued by the respondents-the Department of Food Civil Supplies & Consumer Affairs Punjab whereby it had issued directives to the procurement agencies of the State of Punjab that as the Government of India is insisting upon implementation of the Public Financial Management System (PFMS) at all levels, the registration of the farmers on the PFMS portal is a pre-requisite for release of commission to the Commission Agents for the procurement made during the kharif marketing season of 2019-2020 starting from 01.10.2019. The above said directions were reiterated by Directorate of Food Civil Supplies and Consumer Affairs in the letter dated 18.10.2019 (Annexure P-8).

3. Learned counsel for the petitioners contends that the present writ petitions had been preferred raising a challenge to the above said directives issued to procurement agencies to withhold the due commission of Commission Agents (Aarhtias) for want of updation of the online portal as the same was bad and liable to be set aside. He contends that the issue no more required deeper examination since the Government of India, Ministry of Consumer Affairs, Food and Public Distribution had already issued the letter on 02.12.2019 (Annexure P-12) whereby the insistence of updation of PFMS system for the kharif marketing season of 2019-2020 had been exempted. He submits that since the payment was ordered to be withheld in order to implement the PFMS system and online portal as per the directive of Government of India as since the Government of India has already relaxed the aforesaid requirement, the payment of due commission ought to be released and the letters Annexure P-6 and P-8 have thus become

redundant and unenforceable.

4. Mr. K.K. Gupta, Advocate appearing on behalf of the Food Corporation of India contends that in view of the above said letter of Government of India, the Food Corporation of India had already released all due commission payable to the Commission Agents of the procurement agencies of the State of Punjab.

5. Counsel for the respective procurement agencies viz. PUNSUP, MARKFED, Punjab Warehousing Corporation as well as PUNGRAIN submitted that all the dues payable to the Commission Agents for the kharif marketing season of 2019-2020 have already been released by them. The above said claim is however disputed by the learned Senior Counsel appearing on behalf of the petitioners and he further contends that as per the information available with him, a total liability of Rs. 742 crores was to be released towards commission of various Commission Agents and that an approximate amount of Rs. 7.32 crores is still outstanding.

6. Learned Senior counsel, however, contends that he would be satisfied at this juncture in case the respondent-authorities are willing to look into the claim of the petitioner and to reconcile their accounts on the strength of the evidence submitted by them and without insisting upon the letters Annexure P-6 and P-8 impugned herein, in light of the subsequent developments and the letter issued by the Government of India (Annexure P-12).

7. Counsel for respondent-Procurement Agencies have no objection to the same.

8. Accordingly, the present petitions are disposed of with liberty to the petitioners/members of the petitioners' Association herein to approach

the respective State Procurement Agencies for release of their balance/outstanding commission for the kharif marketing season 2019-2020. The respondents-State Procurement Agencies shall thereupon pass an order on such claim lodged by the claimant/Commission Agents within a period of 03 months of submission of the same for the said season, after hearing concerned parties. In the event any amount, if any, is found payable, such overdue commission shall thereafter be released within a period of one month thereafter.

All the pending miscellaneous applications, if any, are also disposed of.

(VINOD S. BHARDWAJ)
JUDGE

JANUARY 18, 2023
Vishal Sharma

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