

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

CWP No.29145 of 2022 (O&M)

Date of Decision.19.04.2023

The Punjab State Cooperative Supplies and Marketing Federation Ltd.

...Petitioner

Vs

Rajinder Singh and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Naresh Gopal Sharma, Advocate
for the petitioner.

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JAISHREE THAKUR J. (ORAL)

1. The present writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing of impugned order dated 23.10.2020 (Annexure P-1) passed by the Additional Registrar (Credit), Cooperative Societies, Punjab, Chandigarh whereby claim of the petitioner for recovery of Rs.2,17,34,331/- was rejected and order dated 27.07.2021 (Annexure P-2) passed by the Registrar Cooperative Societies, Punjab whereby appeal preferred against order dated 23.10.2020 stood dismissed.

2. Facts in brief are that wheat crop for the year 2001-2002 stored at Mrs. Surinder Kaur Open Complex, Moga was under joint custody of respondents No.1 and 2. Respondents No.1 and 2 failed to liquidate the wheat stock despite providing wheat specials, which resulted into damage of 1869.5 tonnes of wheat. This damaged wheat was declared unfit for human consumption by FCI and was categorized as cattle feed. Due to the aforesaid fact, petitioner sold the wheat stock at lower rate, which incurred a loss of Rs.2,17,34,331/-. To recover the aforesaid loss, petitioner approached the Additional Registrar (Credit), Cooperative Societies, Punjab, Chandigarh in arbitration proceedings, which were dismissed vide order dated 23.10.2020 on the ground that the shortage was

confirmed by the Markfed in the year 2006 and the arbitration proceedings against respondents No.1 and 2 were initiated in 2015 i.e. after 9 years. Appeal preferred against order dated 23.10.2020 also stood dismissed by the Registrar, Cooperative Societies, Punjab, Chandigarh vide order dated 27.07.2021. Hence, the instant writ petition.

3. Learned counsel appearing for the petitioner would contend that the claim of the petitioner has been rejected merely on the ground that the same is time barred without appreciating the law settled by this Court in CWP No.7930 of 2014 titled as *The Chandigarh Pepsu Coop. House Building Vs. The Secretary, Department of Cooperation and others* decided on 21.07.2014 wherein it has been held that provisions of the Limitation Act, 1963 are not applicable to the initiation of arbitration proceedings in respect of claims made and adjudicated upon under Sections 55 and 56 of the Punjab Cooperative Societies Act, 1961 and if the contrary view is taken, it might seriously prejudice the practice of referring the dispute to arbitration under Sections 55 and 56 of the said Act as the proceedings under these provisions are statutory arbitration.

4. I have heard learned counsel for the petitioner and perused the paper book. Admittedly, arbitration proceedings for recovery were with respect to shortage of wheat stock related to the year 2001-2002 and the same were initiated in the year 2015 i.e. after 9 years of its confirmation in the year 2006. A perusal of the order dated 23.10.2020 passed by the Additional Registrar (Credit), Cooperative Societies, Punjab would reveal that the arbitration proceedings were not rejected merely on the ground of delay but on merits as well, as witnesses were examined and a finding was rendered based on the material available on record. The Additional Registrar (Credit), Cooperative Societies, Punjab, upon appreciating the record, facts and written arguments produced by both the parties,

held that it is clear that the claim sought by the petitioner is related to shortage of wheat stock for the year 2001-02. The stock purchased by the petitioner Markfed was lustre loss and affected by rain, as it was stored in the open plinths. Shortage in this stock has been confirmed by petitioner Markfed in 2006 i.e. after 6 years. While cross-examining the witness produced by the Markfed, it came to light that the stock movement is done at the behest of the Head Office. It also came to the light that as per the committee report, due to some difficulties, this stock was not dispatched on time. If the stock stored by the petitioner Markfed in open place is not cleared for 6 years, then the shortfall in that stock cannot be blamed on the custodian of that stock, particularly when the higher officials of Markfed are informed every month about the quality of this stock. It also came forth from the testimony of witness that Markfed submitted a report under OMSS(D) scheme on loss of the stock due to non-disposal of the same within stipulated time and therefore, sale difference of Rs.6,56,03,246/- had been recovered from FCI by the Markfed. In this background, finding was rendered by the Additional Registrar (Credit), Cooperative Societies, Punjab that once the sale difference has been recovered from the FCI, then no recovery ought to be effected from respondents No.1 and 2 herein.

5. As regards the judgment relied upon by the petitioner herein, the same would not be applicable to the facts of the present case as in that case delay in filing the appeal was 9 months whereas in the present case delay is of 9 years. In the judgment rendered by this Court in *Krishan Kumar Sharma Vs. Rajpur Sallapur Cooperative Agricultural Services Society Limited* 2001 (3) PLR 283, it has been held that Article 137 of the Limitation Act is applicable to any petition or application filed under any Act and therefore, arbitration proceedings for

recovery undertaken after expiry of 3 years period of limitation are barred by Article 137 of the Limitation Act.

6. In view of the aforesaid facts and circumstances, this Court does not find any reason to interfere with orders dated 23.10.2020 and 27.07.2021 as passed by respondents No.3 & 4 respectively. Consequently, the instant writ petition stands dismissed *in limine*.

(JAISHREE THAKUR)
JUDGE

April 19, 2023
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No