



CWP-3034-2020

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

204

CWP-3034-2020

Date of decision: 15.05.2024

M/S MITTAL CO-OWNER RAISED AND ANOTHER

....PETITIONERS

Vs.

PUNJAB STATE GRAINS PROCUREMENT CORPORATION LTD AND
OTHERS

...RESPONDENTS

CWP-5001-2020

M/S SHRI RAM CO-OWNER AND ANR

....PETITIONERS

V/S

PUNJAB STATE GRAINS PROCUREMENT CORPORATION LTD.
(PUNGRAIN) AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sherry K. Singla, Advocate
for the petitioner(s).Mr. Abhinav Gupta, Advocate
for respondent Nos. 1 and 2.

JAGMOHAN BANSAL, J (ORAL)

1. By this common order CWP-3034-2020 and CWP-5001-2020 are being disposed of since issues involved in both the petitions and prayer sought are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-3034-2020.

2. Additional affidavit of Puneet Goyal, Managing Director, Punjab State Grains Procurement Corporation Limited (PUNGRAIN) filed on behalf of



respondent No. 1 is taken on record. Registry is directed to tag the same at an appropriate place.

3. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking direction to respondent to make payment of rent for the financial year 2016-17 with respect to utilization of godowns of the petitioners.

4. The petitioners constructed open plinths for the storage of foodgrain. The respondent No.1 is storing its stock in the premises of the petitioner. The respondent stored its foodgrain during 2016-17 like other years. The respondent made payment of rent on the basis of actual utilization and petitioner is claiming that he is entitled to payment of rent on yearly/capacity basis.

5. Learned counsel for the petitioner drew attention of this Court to Annexure P-1 i.e. utilization certificate issued by District Manager PUNGRAIN, Bathinda. Column No.4 of the certificate indicates that respondent had agreed to pay rent on yearly basis. The petitioner further relied upon communication dated 18.07.2018 made by Assistant Food and Supplies Officer and memo dated 24.07.2018 addressed to Managing Director by District Manager PUNGRAIN. These letters are collectively indicating that respondent had agreed to pay rent on the basis of capacity. It is only petitioner who has not been paid rent on capacity basis. There are a number of plinth owners including M/s Govind Open Plinths who have been paid rent on capacity basis for the financial year 2016-17.

6. Learned counsel for respondents No.1 and 2 on instructions from Mr. Sanjeev Bhatia (AFSO) and Mr. Satish Mittal (Auditor) and Mr. Manpreet Singh (Inspector) submits that petitioner has entered into lease deed with the respondent. The lease deed is duly signed by petitioner and in the lease deed, it



has been specifically mentioned that rent would be paid on the basis of actual utilization. The internal communication made by lower staff to senior officers cannot be relied upon. He further relied upon order dated 28.05.2018 passed by Managing Director, PUNGRAIN wherein it is ordered that rent would be paid on the basis of actual use.

7. Learned counsel for the respondents pointing out additional affidavit submits that decision has been taken at higher level and appropriate action is going to be taken with regard to payment of rent of plinth owners during 2016-2017 on the basis of capacity instead of utilization. The relevant extracts of additional affidavit are reproduced as below:-

“8. That in respect of the payment of rent to plinths owners on capacity basis hired for Financial Year 2016-17, it is submitted that as per information gathered from district offices, 114 plinths have been paid rentals on capacity basis, out of which 39 Agreements have been found to be executed on capacity basis, whereas 71 sanctions were issued prior to issuance of directions of State Govt. dated 03.11.2017 and for other 4 plinths, payments were made at District level, Further, to ensure the recovery of any excess rent paid to any beneficiary, an Internal Audit committee of the following officers has been ordered to be constituted to examine and audit the payments of rentals made for financial year 2016-17, so that recovery proceedings may be initiated from the concerned beneficiaries and disciplinary proceedings against the delinquent officials.

- i) Sh. Ajaiveer Singh Sarao, Chairman, Central Vigilance Committee*
- ii) Smt. Sweety Devgan, Deputy Director (Storage)*
- iii) Smt. Gazalpreet Kaur, Assistant Controller, Finance & Accounts.*
- iv) Sh. Sanjeev Kumar, Assistant Director, PUNGRAIN Branch, HO.”*

8. The amount involved in the petitions is less than 2.5 lacs and disputed questions of fact are involved. The respondent is claiming that there was mistake on their part. The petitioner cannot take advantage of mistake of respondent especially when respondent is a public authority and public money is involved.

9. In view of the above, this Court does not deem it appropriate to invoke its writ jurisdiction, thus, the present petition stands disposed of with liberty to petitioner to avail remedies as permissible by law.

15.05.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No