

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of decision: 11.01.2024

CWP-16292-2020 (O&M)

KAPIL DEV SHARMA AND ANOTHERPetitioners
VERSUS
STATE OF HARYANA AND OTHERSRespondents

CWP-17077-2020

RANDHIR SINGH AND OTHERSPetitioners
VERSUS
STATE OF HARYANA AND OTHERSRespondents

CWP-2410-2021

RAI SINGH AND OTHERSPetitioners
VERSUS
STATE OF HARYANA AND OTHERSRespondents

CWP-21966-2022

BALDEV SINGH AND ANOTHERPetitioners
VERSUS
STATE OF HARYANA AND OTHERSRespondents

CWP-20280-2023 (O&M)

GURNAM SINGH AND OTHERSPetitioners
VERSUS
STATE OF HARYANA AND OTHERSRespondents

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

Present: - Mr. Ravi Dutt Sharma, Advocate
for the petitioner in CWP-16292-2020 and
COCP-118-2021.

Mr. Pardeep Solath, Advocate
for the petitioners in CWP-17077-2020 and
CWP-2410-2021.

Mr. Akshay Jindal, Advocate
for the petitioner in CWP-21966-2022.

None for the petitioner in CWP-20280-2023.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. Baldev Raj Mahajan, Advocate with
Mr. R. S. Budhwar, Advocate
for respondents No.3 and 4 in CWP-16292-2020,
CWP-17077-2020 and CWP-2410-2021.

Mr. Nipun Bhardwaj, Advocate
for respondent No.5 in CWP-16292-2020.

Mr. Vivek Chauhan, Advocate
for respondent-HSAMB.

Mr. Vivek Saini, Advocate
for respondents No.4 & 5-HSAMB in CWP-20280-2023.

Mr. Jagdish Manchanda, Advocate
for respondents No.6 and 7 in CWP-20280-2023.

VINOD S. BHARDWAJ, J. (Oral)

1. The present petitions have been filed for seeking directions to the respondents to make necessary modification in the scheme i.e. 'Haryana Meri Fasal Mera Byora Registration, 2020' for farmers so that the farmers who are cultivating the land, recorded under the ownership of the State of

Haryana or the Gram Panchayat, may be issued the OTP for registration of their crop on the web portal of the State of Haryana.

2. An affidavit by Joint Director, Agriculture and Farmers Welfare Department has been filed. A copy thereof has been furnished to the counsel for the petitioners. As per the said affidavit, the guidelines of 'Meri Fasal Mera Byora Yojna' have been amended and as per the amended eligibility criteria whereby every land owner or a person who is an established registered tenant/cultivator, OTP shall be issued with the permission of the land owner and in cases where there is any dispute pending in relation to cultivation and/or ownership, the OTP shall be issued on the basis of any interim/final decision passed by the concerned authority.

3. Counsel for the petitioners contend that they would still have a subsisting grievance with respect to the land owners who have no pending dispute before any Court of law. However, on the pointed query, the counsel fairly concede that the petitioners herein are not amongst the land owners who have no dispute pending before revenue/Civil Court. Hence, the argument for and on behalf of the person who is not aggrieved or a petitioner before this Court cannot be addressed at this stage.

4. A further argument was raised by the counsel for the petitioners that the respondent has no authority to issue the guidelines. In response to a pointed query as to whether the policy/policy guidelines have been or are a subject matter of challenge under the present set of petitions or not. Counsel fairly concede that the said policy guidelines or the amendments have not been challenged in the present writ petition. Hence, in the absence of any such challenge, the competence of the respondent-State

to issue guidelines and/or to frame the above said scheme cannot be examined.

5. The question which now thus survives is only with respect to the right of an established cultivator to seek OTP. Since the matters of the petitioners are already pending consideration before the Court, the amendment in the policy entitles the respective Court(s)/authority to pass an interim order after considering facts of each case.

6. Counsel for the petitioners have laid emphasis that there is no dispute in relation to the petitioners being in cultivating possession of the land and that the dispute pending before such authority is only in relation to the ownership of the respective party qua the land. Be that as it may, the question as to whether the person claiming title is in an established possession or not is also a matter which can be looked into by the competent Court/authority which is examining the issue of legal ownership/title of the respective parties. Since the title dispute is already pending before a competent Court/authority, it would thus be in the fitness of things that the petitioner(s) move an appropriate application before the authority/Court for the grant of an interim relief and/or for their registration and issuance of OTP before the respective Court. A cause of action to approach a higher forum would accrue in their favour to raise a challenge only in the event such a relief is denied by the respective Court.

7. The present set of petitions are accordingly disposed of at this stage without commenting on merits of the case, with liberty to the petitioners to move an appropriate application for seeking an interim/final relief for seeking registration under the 'Meri Fasal Mera Byora Yojna' and for issuance of OTP by the respondent-Department.

8. The disposal of the present writ petition is, however, not a bar on the petitioners to agitate the other legal issues raised by them about legality and validity of the scheme by means of filing an appropriate petition as per law.

9. Needless to mention that such interim applications, if any, preferred by the respective parties would be decided expeditiously and preferably within a period of two months of receipt of such application and after granting opportunity of hearing to the respective parties.

All the pending miscellaneous application(s), if any, are also disposed of.

(VINOD S. BHARDWAJ)
JUDGE

JANUARY 11, 2024
Vishal Sharma

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