



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-25818-2023

Date of decision: 21.10.2024

SAMSUDEEN

.....Petitioner

VERSUS

UNION OF INDIA AND OTHERS

.....Respondents

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

Present: - Ms. Shweta Bawa, Advocate for
Mr. Balraj Gujjar, Advocate
for the petitioner.

Mr. Sunish Bindlish, Advocate
for respondents No.1 to 3.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present writ petition is to the order dated 26.06.2023 (Annexure P-3) passed by respondent No.1-Secretary, Ministry of Consumer Affairs, Department of Food and Public Distribution, New Delhi whereby the nomination of the petitioner, as a member of the consultative committee of the Food Corporation of India for the State of Haryana, issued by the respondent-Department vide order of even number dated 02.06.2023 was cancelled with immediate effect.

2. Learned Counsel appearing on behalf of the petitioner contends that the petitioner was nominated as a member of the consultative Committee

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of the Food Corporation of India for the State of Haryana in terms of Order No. 7-2/2011-FC.1 for a period of two years vide order dated 02.06.2023 and the oath was administered to the petitioner by the respondent No.3-Regional Managing Director, FCI, Haryana as a non-official consultative member of the Food Corporation of India, however, without any reason or logic, the said nomination of the petitioner was cancelled by respondent No.1 by impugned order dated 26.06.2023, without granting any opportunity of hearing or a show cause notice. Hence, the present writ petition was filed.

3. Respondents No.2 and 3 i.e. the Food Corporation of India submitted a short reply by averring that they are not contesting party and that the appointment as well as removal had been made by the Central Government.

4. Separate reply had been filed on behalf of respondent No.1-Union of India wherein it was averred that as per the guidelines of the Govt. of India, Ministry of Consumer Affairs, Food & Public distribution, Department of Food and Public Distribution, a consultative Committee for each State/Union territory is required to be constituted. The eligibility criteria, procedure for appointment in terms of non official of the consultative Committee specifically provides that the appointment to the post of non-official member of the consultative Committee would be made with the approval of the minister of the Consumer affairs. A letter dated 28.02.2023, was placed before the competent authority purported to have been issued by the Member of the Parliament (Lok Sabha) from Devaria (Uttar Pradesh). The same was received in the office of the Hon'ble Minister for Consumer Affairs whereby the biodata of the petitioner was forwarded recommending him for nomination as a member of the consultative committee of the Food Corporation of India. Accordingly, the matter was forwarded and approval was granted by the Hon'ble Minister.

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Thereafter, police verification report and antecedents of the petitioner was called for vide order dated 02.06.2023. It was further averred that the order of appointment issued clearly specified that the appointment is for a period of two years or till further orders, whichever is earlier. Hence, there is no right to a fixed tenure for a candidate to hold the post for the period of two years. It is further averred in the above said written statement that the recommending person i.e. the Member of Parliament (Lok Sabha) from Devaria, Uttar Pradesh informed the Department that the recommendation letter dated 28.02.2023, on the basis whereof the petitioner was recommended, was not issued by his office and he never made any recommendation in favour of the petitioner. It was thus brought forth that the recommendation was not valid and had been submitted fraudulently or through unfair means. The nomination of a candidate has to be made only on the basis of valid recommendation and where it was found that the same was invalid/not genuine, hence, the nomination of the petitioner was cancelled vide order dated 26.06.2023, with the approval of the competent authority.

5. Even though, the above said reply was filed by the respondents on 24.05.2024 and a period of nearly 06 months has elapsed since then, however, no rejoinder has been filed disputing the said factual allegations leveled by the respondents.

6. Learned Counsel for the petitioner has also failed to refer to any provision on the basis whereof it can be held that an order of cancellation/removal of a person as member of the Consultative Committee can only be done after granting an opportunity of hearing. She has also failed to refer to any such provision under the FCI regulations or the official circulars/guidelines issued by the Ministry of Consumer Affairs, Food and



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Public Distribution. Further the appointment is not for any fixed tenure rather the period of two years is a maximum tenure that had been provided in the order of appointment dated 02.06.2023 or till further orders, whichever is earlier. Further, the appointment has apparently been secured on the basis of a fraudulent documents that were submitted with the authorities and do not confer any right to seek validation of the benefits secured by way of playing a *prima facie* fraud.

7. It is also evident that an appointment has to be made only on the basis of a valid recommendation, which such recommendation is itself discredited, the initial appointment thus becomes fraudulent. No person can claim perfection of a right to appointment notwithstanding the fraudulent manner of serving the same. Position of law is well settled that fraud vitiates everything.

8. The argument of the petitioner about Principle of Natural Justice thus cannot be given much weight and deserves to be rejected. The present writ petition is accordingly dismissed at this stage, with the liberty to the petitioner to take recourse to appropriate remedy in accordance with law, if so advised.

(VINOD S. BHARDWAJ)
JUDGE

OCTOBER 21, 2024
Vishal Sharma

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