



CWP-3832-2025 and connected cases 1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104 (I) CWP-3832-2025
Date of Decision : March 21, 2025

M/S MADHYA BHARAT AGRO PRODUCTS LTD -PETITIONER
V/S
THE STATE OF PUNJAB AND OTHERS -RESPONDENTS

(II) CWP-3833-2025

M/S MADHYA BHARAT AGRO PRODUCTS LTD -PETITIONER
V/S
THE STATE OF PUNJAB AND OTHERS -RESPONDENTS

(III) CWP-3834-2025

M/S MADHYA BHARAT AGRO PRODUCTS LTD -PETITIONER
V/S
THE STATE OF PUNJAB AND OTHERS -RESPONDENTS

(IV) CWP-3835-2025

M/S MADHYA BHARAT AGRO PRODUCTS LTD -PETITIONER
V/S
THE STATE OF PUNJAB AND OTHERS -RESPONDENTS

(V) CWP-3837-2025

M/S MADHYA BHARAT AGRO PRODUCTS LTD -PETITIONER
V/S
THE STATE OF PUNJAB AND OTHERS -RESPONDENTS



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CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. N.K. Manchanda, Advocate with
Mr. Shiv Kumar, Advocate
for the petitioner(s).

Mr. Pardeep Bajaj, D.A.G., Punjab, assisted by

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Mr. Jaskanwal Singh, Agricultural Development Officer,
Punjab.

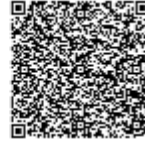
KULDEEP TIWARI, J. (ORAL)

1. The amenability of all these writ petitions for being decided through a common verdict originates from them being enveloped with a common gravamen, besides being enveloping common question(s) of law, and, facts.

2. To be precise, the drawing of dis-affirmative order(s) by the appellate authority concerned, upon the appeal(s) preferred by the petitioner(s) under Clause 32A(3) of the Fertilizer (Inorganic, Organic or Mixed) (Control) Order, 1985 (hereinafter referred to as the 'Order of 1985'), thereby beseeching third analysis of the sample, has caused pain to the petitioner(s) and propelled them to approach this Court through instituting these writ petitions. For the sake of brevity, the facts are being extracted from CWP-3832-2025.

FACTUAL MATRIX

3. Succinctly stated; the petitioner-Company was/is involved in the manufacturing of fertilizers and chemicals, including DAP/MPK complex fertilizers. On 25.06.2024, the Fertilizer Inspector concerned collected samples of DAP from various Multipurpose Co-operative Societies/dealers of the petitioner-Company and sent the same to the Fertilizer Quality Control Laboratory, Ludhiana, for analysis. The analysis report encompassed findings adversarial to the petitioner-Company

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inasmuch as the sample was not found upto the specifications prescribed in Schedule-1 and it was found to be of “non standard” nature. Resultantly, show cause notice was served upon the petitioner’s dealers/Multipurpose Co-operative Societies concerned, however, they did not opt for second analysis of the sample. Thereafter, post lapse of the statutory period of one week since the date of collecting the sample, show cause notice was served upon the petitioner-Company on 02.08.2024, thus informing that its DAP fertilizer has been found to be of “non-standard” nature.

4. Consequent upon the petitioner-Company becoming seized of the show cause notice (supra), it preferred a statutory appeal before the appellate authority concerned, by enclosing therein a prayer that, in view of the right bestowed upon it by Clause 28B(2) of the Order of 1985, the sample may be sent to the Central Fertilizer Quality Control and Training Institute, Faridabad, for re/third analysis. However, the petitioner’s appeal did not find favour with the appellate authority and it was dismissed vide order dated 04.12.2024, on the premise that, the petitioner failed to point out any valid ground for not making request for analysis of second part of the sample.

5. In this way, fetching grievance from the dismissal order dated 04.12.2024, the petitioner has approached this Court through instituting the present writ petition.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

6. The principal argument of the learned counsel for the petitioner

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generates from Clauses 28B(2) and 32A(3)&(4) of the Order of 1985 inasmuch as thereby the petitioner-Company becomes bestowed with the right to, in the event of its omitting to apply for second analysis of the sample, for some valid reason, thus make an appeal before the appellate authority for third analysis of the sample. However, the appellate authority has denied this statutory right of third analysis to the petitioner through drawing the impugned order dated 04.12.2024 and consequently, the petitioner has to face the wrath of prosecution merely on account of first analysis report of the sample.

7. The next argument constructed by the learned counsel for the petitioner is that, the impugned order dated 04.12.2024 does not enclose any reasons in support of the conclusion arrived therein. Therefore, when the appellate authority has failed to assign any reasons in the impugned order for declining the petitioner's appeal for third analysis of the sample, hence the impugned order becomes rendered non-speaking and warrants interference.

SUBMISSIONS OF THE LEARNED STATE COUNSEL

8. The learned State counsel has furnished separate replies dated 20.03.2025, on affidavit of Jaswant Singh, Director, Agriculture and Farmers Welfare, Punjab (in CWP Nos.3832, 3833, 3834, 3835, 3837, 3838, 3839, 3840, 3842, 3848, 3864 and 3865 of 2025), which are taken on record. He submits that, these replies be also treated as replies in other writ petitions wherein replies are yet to be filed, as similar facts and legal

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issues are involved therein.

9. The arguments made by the learned counsel for the petitioner have been vehemently opposed by the learned State counsel, primarily on the ground that, not only a single sample, rather approx. 16 samples were collected from various Multipurpose Co-operative Societies/dealers of the petitioner-Company and upon analysis thereof, all the 16 samples were found to be of “non-standard” nature. Hence, there cannot be error in the analysis report of all the 16 samples.

10. The learned State counsel further submits that, as per the mandate enclosed in Clause 28B(2), the petitioner-Company was required to, within seven days of the drawing of the sample, make request for second analysis of the sample, however, the said option has admittedly not been exercised by the petitioner-Company. Moreover, the appeal for third analysis of the sample, as preferred by the petitioner-Company, accentuates its ill intention to delay the prosecution proceedings inasmuch as the same was filed much belatedly and only after receipt of the show cause notice. Not only this, even the appeal preferred by the petitioner-Company, except its enclosing the prayer for third analysis, did not encapsulate any valid reasons warranting the appellate authority to send third sample for analysis.

11. Concluding his arguments, the learned State counsel submits that, the manufacturing and supply of non-standard DAP caused prejudiced to the farmers and triggered them to approach this Court for


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issuance of directions upon the State Government to take action against the manufacturer of the DAP. The writ petition(s) filed by the farmers is pending adjudication and in one of the case, prosecution has already been launched. In this way, it is clear that the petitioner-Company is a habitual defaulter and owing to its defaults, its licence has already been cancelled by the competent authority.

ANALYSIS OF SOME SIGNIFICANT CLAUSES OF THE ORDER OF 1985 GERMANE TO DISPOSAL OF THESE WRIT PETITIONS

12. Before this Court proceeds to gauge the merits/demerits of the case at hand and consequently evince any opinion thereon, it is deemed apt to initially capture a glimpse of some significant legal provisions germane to the disposal of the instant writ petitions.

13. The dispute at hand pivots around Clauses 28B(2) and 32A(3)&(4) of the Order of 1985. Hence, on account of these clauses acquiring dire significance for disposal of these writ petitions, the same are reproduced hereunder:-

“28 B. Sample drawn by the Inspector

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(2) The company or dealer, from whom sample is drawn may request to such authority within one week from the date of drawal of sample, to send the second part of the sample to any of the National Test House Laboratories on payment of fees as provided by the Central Government from time to time and in case, there is variation in the results of the first and second analysis, then the said authority invariably shall send the third part of the sample to Central Fertiliser Quality Control and Training Institute, Faridabad for final referee analysis.



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“32 A. Appeal at the State Government level.

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(3)In cases where the company or dealer has not applied for the second analysis due to some valid reason then the company or dealer may made an appeal in the Fertiliser (Inorganic, Organic or Mixed) (Control) Order, 1985 to the Appellate authority and the Appellate Authority shall decide on the grounds of the facts whether the matter qualifies to be considered for third analysis.

(4) The appellate authority after providing an opportunity to the aggrieved party of being heard may send the third sample for analysis to the laboratory specified under sub-clause(3) of clause 29-B.”

14. A conjoint reading of the hereinabove reproduced clauses makes it abundantly clear that:-

- (i)

The company or the dealer, from which sample is drawn, is conferred with the right to, within one week from the drawing thereof, make request to the authority to send the second part of the sample to any of the National Test House Laboratories on payment of the requisite fees. In case, any variation is found in the results of the first and second analysis, then the authority shall second the third part of the sample to the designated laboratory/institute for final referee analysis.
- (ii)

In the event of the company or the dealer’s omission to apply for second analysis due to some valid reasons, it is bestowed with the right to make an appeal before the

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appellate authority, whereupon, the latter shall, after granting opportunity of hearing to the former, examine on the grounds of the facts as to whether the matter qualifies for third analysis.

UNDISPUTED FACT(S)

15. There is no wrangle between the contesting litigants that, the sample drawn by the Fertilizer Inspector concerned does not have any expiry date. Therefore, in case, this Court draws the conclusion that, the petitioner-Company is entitled for third analysis, it is feasible to send the third sample for analysis to the Central Fertilizer Quality Control and Training Institute, Faridabad.

REASONS FOR ALLOWING THESE WRIT PETITIONS AND SETTING ASIDE THE IMPUGNED ORDER(S)

16. The first and foremost reason for drawing this inference stems from the lack of knowledge/intimation by/to the petitioner-Company about collection of the sample by the Fertilizer Inspector concerned. The petitioner-Company initially supplied the DAP fertilizer to the Markfed, which is undisputedly controlled by the Government of Punjab. Thereafter, Markfed supplied this fertilizer to various Multipurpose Co-operative Societies for distributing it further to farmers. The sample of DAP fertilizer was drawn from Multipurpose Co-operative Societies. However, neither the replies furnished by the learned State counsel, nor any other document available on record, brings it to the fore that, either the Markfed or the Multipurpose Co-operative Societies ever

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made any intimation to the petitioner-Company regarding collection of sample by the Fertilizer Inspector. In this way, owing to complete ignorance about drawing of sample, the petitioner-Company could not make any request, within the statutory period, for sending the second part of the sample to any National Test House Laboratory. It was only after issuance of show cause notice that the petitioner-Company gained knowledge about the sample of DAP fertilizer being found to be “non-standard” and resultantly, it filed the appeal before the appellate authority, by narrating therein the reasons for its not being able to avail the remedy under Clause 28B(2) of the Order of 1985. However, the appeal was dismissed vide impugned order dated 04.12.2024.

17. This Court has made a studied survey of the impugned order dated 04.12.2024 and is coaxed to record that, the appellate authority has, except for its recording the factual matrix, neither appreciated the good and valid reasons explained by the petitioner-Company, i.e. lack of knowledge about drawing of sample, nor penned down any reasons for arriving at the finding adversarial to the petitioner-Company. Consequently, this Court has no hesitation to record that, on account of above explained reasons, the petitioner-Company is entitled for third analysis of the sample, and that, the impugned order dated 04.12.2024 warrants interference.

FINAL ORDER

18. In summa, all **these writ petitions are allowed** and the



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impugned dismissal order(s) are set aside.

19. The Joint Director of Agricultural Inputs, Punjab, who is custodian of the sample, is directed to send the third part of the sample to Central Fertiliser Quality Control and Training Institute, Faridabad for third analysis. Needless to say, the result of the third analysis shall be final in view of Clause 28B of the Order of 1985.

20. Pending application(s) stand disposed of accordingly.

21. A photocopy of this order be placed on file of each connected case.

March 21, 2025
devinder

(KULDEEP TIWARI)
JUDGE

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