



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

CWP-16134-2017 (O&M)
Date of Decision : 08.01.2025

JULFAAN AND OTHERSPetitioners

VERSUS

UNION OF INDIA AND OTHERSRespondents

CWP-21543-2017 (O&M)

HARYANA STATE AUCTIONEERS ASSOCIATION AND OTHERS
.....Petitioners

VERSUS

STATE OF HARYANA AND OTHERSRespondents

CWP-24942-2017 (O&M)

SATISH KUMAR GUPTA AND OTHERSPetitioners

VERSUS

STATE OF HARYANA AND OTHERSRespondents

CWP-1229-2018 (O&M)

ANIL KUMAR AND OTHERSPetitioners

VERSUS

STATE OF HARYANA AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. J.S.Maanipur, Advocate with
Mr. Jasbir Singh, Advocate,

for the petitioners in CWP-16134-2017

Mr. Akash Mehta, Advocate and
Mr. M.S.Longia, Advocate,
for the petitioner in CWP-21543-2017

Mr. Rajesh Bansal, Advocate for
Mr. Jaswant Singh, Advocate,
for the petitioners in CWP-24942-2017 &
CWP-1229-2018

Mr. Chander Mohan Sharma, Advocate for
for respondent no.1-UOI in CWP-16134-2017

Mr. Padamkant Dwivedi, Advocate,
for respondent no.6 in CWP-21543-2017, CWP-24942-2017
for respondent no.6 and 7 in CWP-1229-2018

Ms. Jyotsna Saini, Advocate for
Mr. Ashish Yadav, Advocate,
for respondents no.7 to 9 in CWP-16134-2017
for respondents no. 3 to 9 in CWP-24942-2017
for respondent no. 3 in CWP-21543-2017
for respondents no.3 in CWP-1229-2018

Mr. Arun Gosain, Senior Government Advocate
for respondent no.4 in CWP-16134-2017
for respondent no.5 in CWP-24942-2017 &
CWP-1229-2018, CWP-21543-2017.

Mr. Sunil Kumar, Advocate and
Mr. Lalit Attri, Advocate,
for respondent no.6 in CWP-16134-2017

Mr. Gaurav Jindal, Advocate,
for respondent no.7 in CWP-16134-2017, CWP-21543-2017,
and CWP-24942-2017.

KULDEEP TIWARI, J.(Oral)

1. Since in all the four petitions a common relief has been sought, therefore, being amenable for common decision, same are taken up together.

2. Through the instant writ petitions filed under Sections 226 of the Constitution of India, prayer is made for seeking quashing of order dated 02.12.2016 (Annexure P-19), passed by the Director, Food and Supplies Department, Haryana, whereby, the stands due charges for the services, as availed, has not been paid, which has caused grievance to the petitioners and propelled them to approach this Court.

3. These petitions are pending since 2017 before this Court.

4. On 10.10.2023, a co-ordinate bench of this Court had filed the following order:-

“The present set of petitions raises a question where the Auction Recorders have approached this Court for release of their commission for having conducted auction, which has been denied by the respondents for the reason that the sale in the Market Committee has taken place at the minimum support price notified by the Government. While the petitioners contend that the Rules mandate every sale transaction to take place only by way of an auction, hence, the commission due to them cannot be denied for the reasons that the auction was finalized at the MSP itself. The Auction Record duly substantiates the process of auction and in the absence of any person offering a higher bid and confirmation of sale in favour of such a bidder, the auction recorder would be entitled to his rightful dues under the Rules.

On the other hand, counsel appearing on behalf of the respondents contend that once no sale can take place at a price below the minimum support price, the process of selling at MSP is not an actual auction that has taken place and that the petitioners would not be entitled to commission on the basis thereof.

Specific queries have been raised to the counsel appearing on behalf of the respondents which are as under:

- i) As to whether the record pertaining to auction was maintained in the present case by the Market Committee having participation of more than one bidder and whether such record was verified before a sale has been confirmed.
- ii) Whether the Rules permit any transaction in a Market Committee by a mode other than by way of an auction.
- iii) Whether the Rule creates an exemption from the liability to pay the commission to the Auction Recorders in the event of sale on MSP;
- iv) Whether the Commission on sale of MSP has ever been released by the respondents to the Auction Recorders prior to the period which is now in dispute before this Court or not.

Counsel appearing on behalf of the respondents, plead lack of instructions on all the aforesaid issues. Further, it is evident that even though the representatives of the respective Market Committees are present in Court, however, the issues would require examination and consideration at the level of the Government. The question of admissibility of the dues to the Auction Recorders is an issue to be resolved at the level of the Government in the Department of Food, Civil Supplies and Consumer Affairs.

While directing the respondents to file an affidavit in this regard, it is also deemed expedient, considering the issue of livelihood of the Auction Recorders who are before this Court for claiming their dues, that the Principal Secretary, Department of Food, Civil Supplies and Consumer Affairs remains present in the Court on the next date of hearing, if the issue is not resolved during the above consideration at the level of government.

Adjourned to 06.12.2023.

A photocopy of this order be placed on the file of connected cases. ”

5. Thereupon, in compliance of the aforesaid directions the Additional Chief Secretary, Government of Haryana, Food, Civil Supplies and Consumer Affairs Department, filed a specific affidavit dated 01.02.2024.

6. Thereafter, on the basis of the aforesaid affidavit, the auction purchasers or their associates, if have any grievance, were directed to approach the Director, Food, Civil Supplies and Consumer Affairs Department, and a further direction was issued upon the authority (*supra*), after considering their documents to reconsider their case in accordance with law. The relevant extract of the order dated 06.12.2023, reads as follows:-

“Pursuant to orders passed by this Court, the Additional Chief Secretary to Government of Haryana Food, Civil Supplies & Consumer Affairs Department as well as Sh.Mukesh Ahuja, IAS, Chief Administrator, Haryana State Agriculture Marketing Board are present in Court. An additional affidavit of respondent No.9 through Secretary-cum-E.O., Market Committee, Chhachrauli has also been filed in Court today. Copy thereof has been handed over to counsel for the petitioner.

Counsel for respondent No.9 further states that even though the additional affidavit has been filed in CWP No.16134-2017, however, the said affidavit be read in all other petitions as well and that he shall ensure that a copy of the said additional affidavit is also furnished to the counsel representing the petitioners in other cases.

In response to the query posed earlier by this Court, the Additional Chief Secretary to Government of Haryana Food, Civil Supplies & Consumer Affairs Department has informed that the auction charges are paid as per bye law 28 prescribing remuneration of different market functionaries for services offered at the Market Committee area/market yard and that as per the explanatory note to the leviable charges, the incidental charges incorporated at Sr. No.(ii) and (viii) pertaining to cleaning and dressing manually and auction charges are not to be borne by the purchaser if the sale takes place at the minimum support price notified by the Government. Hence, there are no dues payable to the petitioners.

Counsel for the petitioner, however, contends that the details as regards the above said decision taken and the chronological sequence of events has not been furnished by the respondents.

The State counsel undertakes to file a comprehensive affidavit detailing entire sequence, the chronology alongwith the supporting correspondence in this regard as well as the statutory provisions governing release of auction charges.

On request, adjourned to 07.02.2024.

Personal appearance of the officers namely Additional Chief Secretary to Government of Haryana Food, Civil Supplies & Consumer Affairs Department as well as the Chief Administrator, Haryana State Agriculture Marketing Board is exempted till further orders.

The Additional Chief Secretary further submits that in the event the auction purchasers or their associates has any grievance with respect to the release of their rightful dues, they may approach the Director, Food, Civil Supplies & Consumer Affairs and that in the event of the petitioners approaching the Director, Food, Civil Supplies & Consumer Affairs, the requisite demands/documents furnished alongwith the same shall be considered in accordance with law.”

7. Learned State counsel submits that in pursuance of the aforesaid order, the petitioners did approach the Director, Food, Civil Supplies and Consumer Affairs Department, Department of Haryana, and thereupon, on 22.01.2024, a fresh order has been passed. A copy of the said order has been placed on record as Annexure R-10, and a copy thereof, has also been supplied to learned counsel for the petitioners.

8. The petitioners still have the grievance with regard to the order passed by the Director concerned as it has been passed without

considering the specific Query No.i, as raised by this Court, in its order dated 10.10.2023.

9. This Court is of the view that since a fresh order dated 22.01.2024 (Annexure R-10), has been passed by the Director, Food, Civil Supplies and Consumer Affairs Department, Department of Haryana, no further order is required to be passed by this Court. In case the petitioners are still left with any grievance, they are at liberty to challenge the said order by filing an apt motion.

10. **Disposed of** accordingly.

11. All pending application(s), if any, also stand **disposed** of accordingly.

12. A photocopy of this order be placed on the files of the connected cases.

January 08, 2025
dharamvir

(KULDEEP TIWARI)
JUDGE

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