

2025:PHHC:133789-DB



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

CWP-25019-2025**Date of Decision: September 24, 2025****Dinesh Kumar**

..... Petitioner

Versus**Haryana State Federation of Consumers Co-operative Wholesale Stores
Ltd. and others**

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Deepkaran Dalal, Advocate for the petitioner.

Mr. Sukhdeep Parmar, Addl. AG, Haryana.

LISA GILL, J.

1. Prayer in this writ petition reads as under:

“a) Issue an appropriate writ, order or direction, more particularly in the nature of Certiorari, quashing and setting aside the impugned order dated 07.01.2025 (Annexure P-1) passed by Respondent No.1, whereby the Petitioner has been blacklisted for a period of one year, 50% of the security amount deposited against the NIT Faridabad tender has been forfeited, and recovery of 269,206/- has been initiated against the Petitioner, Further, the matter related to refund of security regarding Old Faridabad tender has been put to hold merely on the ground of pendency of appeal of the Ld. Trial Court's Order before this Hon'ble Court; as the impugned order is

illegal, arbitrary, unjust, violative of Articles 14 and 19 (1) (g) of the Constitution of India, and passed without application of mind and in disregard of settled legal principles and the Petitioner's detailed defence; and

b) Issue a writ of Mandamus or any other appropriate writ, order or direction, directing the Respondents to forthwith refund the entire security amount deposited by the Petitioner under both the agreements dated 20.07.2015 and 20.08.2015, total amounting to Rs. 34,19,206/- (Rupees Thirty Four Lakhs Nineteen Thousand Two Hundred and Six Only) and Transportation Bills, along with interest as deemed just and proper by this Hon'ble Court; and

c) Grant ad interim ex parte stay of the operation and effect of the Impugned Order dated 07.01.2025, during the pendency of the present Writ Petition; and

d) Pass an appropriate order or direction, thereby restraining the Respondents from taking any coercive steps, including blacklisting, forfeiture or recovery, against the Petitioner in pursuance of the Impugned Order dated 07.01.2025; and

e) Exempt the Petitioner from filing certified copies of Annexure P-1 to Annexure P-15, and instead, take on record the true copies/photo-copies of such documentation in the interest of justice and equity; and/or

f) Pass any other order and/or direction, deemed appropriate by this Hon'ble Court in the facts and circumstances of the case and in the interest of justice & equity.”

2. Brief facts as pleaded in this writ petition are that petitioner is engaged in business of transportation of foodgrains and other essential commodities under contracts awarded by Government agencies and departments. Tender for transportation of foodgrains, paddy, sugar etc. from godowns to FCI/Government Agencies located in old Faridabad to fair price shops was awarded to petitioner by respondent – Haryana State Federation of

CWP-25019-2025 (O&M)

Consumers Co-operative Wholesale Stores Ltd. (for short – CONFED) for the period commencing 01.07.2015 to 31.03.2016. Sum of Rs.21 lakhs was deposited as security which it is stated was required to be refunded/returned upon successful execution and completion of contract as per clause 10 of agreement dated 20.07.2025. Clause 10 of agreement reads as under:-

“10. The Security will be refunded after the successful execution of the contract and after the completion of a contract and after completion of the internal audit of accounts for the period and if any nothing is find due against him and transport/contractor will also submit clearance certificate from DFSC, Faridabad in respect of receipt of supplied to DH's and School during the month with bills for the payment monthly.”

3. Petitioner was also awarded tender for transportation of foodgrains from FCI/Government Agency Godowns situated in NIT Faridabad to fair price shops for the period upto 31.03.2016. It is pleaded that in the ordinary course of business and to facilitate smooth execution of contracts and in compliance of Clause 5 of agreement, petitioner appointed one Sanjay Kumar to assist in logistical tasks and day to day operation. Clause 5 of agreement reads as under:-

“5. Part No.2 shall arrange release order from FCI/DFSC under the above said schemes. The transport contractor will provide the list of all his employee representatives with attested signature to the District manager as well as to Store Keeper In charge.”

4. Said Sanjay Kumar was authorized by petitioner to sign bills, gate passes and other operational documents on his behalf while day to day affairs pertaining to agreement remained with petitioner. It is specifically stated that petitioner explicitly undertook to be fully responsible for any lapses and deficiencies if found in the conduct of Sanjay Kumar. Requisite

CWP-25019-2025 (O&M)

affidavit/authority letter was submitted before concerned authorities who accepted the same without demur.

5. During subsistence of contractual period, FIR No. 22 under Sections 409, 467, 468, 417 and 120B IPC, Section 7 of Essential Commodities Act and Section 13 of Prevention of Corruption Act, 1988 was registered at Police Station Chandhut, District Palwal on the complaint of Surender Singh, DSP, Chief Minister Flying Squad, Faridabad on the basis of information received by Law Enforcement Agencies regarding unlawful diversion and sale of government wheat crops loaded in different trucks. As per allegations, foodgrains meant to be transported from FCI godown situated at village Mandkol, District Palwal to CONFED godown at Faridabad was being misappropriated and illegally transported to Khurja, Uttar Pradesh for unauthorized sale in open market. FIR was registered against ten (10) persons including present petitioner. Petitioner alongwith nine (9) persons were proceeded against in this FIR. It is stated that petitioner was acquitted by learned trial Court vide judgment dated 22.09.2022 while Sanjay Kumar i.e. the person appointed by petitioner to carry on operations and one Parmod Kumar were convicted.

6. In the interregnum, agreements dated 20.07.2015 and 20.08.2015 came to an end on 31.03.2016. Security deposits furnished by petitioner were not refunded though petitioner received a sum of Rs.5,18,000/- towards services rendered during contract period. It is stated that large number of bills were not cleared and substantial portion of legitimate dues and payments towards him remained outstanding. Refund of security amount was being withheld pending conclusion of criminal trial arising out of FIR No. 22. Petitioner submitted representation dated 27.06.2019 before Minister of Food and Civil Supplies,

CWP-25019-2025 (O&M)

Government of Haryana requesting for release of security amount deposited in respect to agreement regarding NIT Faridabad and in a gesture of good faith requested that amount pertaining to old Faridabad agreement may be released after conclusion of pending trial while maintaining the stand regarding his innocence. Concerned officials were directed to examine the matter and take appropriate steps on 03.07.2019. Petitioner was acquitted in FIR No. 22 dated 16.01.2016 vide judgment dated 22.09.2022, passed by Additional Sessions Judge, Palwal with Sanjay Kumar and Parmod being convicted. Subsequent to acquittal of petitioner, he vide e-mail dated 22.10.2022 requested respondents to release security amount qua old Faridabad as well as NIT Faridabad agreements. No action was taken on which representation dated 16.11.2022 was addressed by petitioner. Formal complaint was also filed by him before Chief Minister's Public Grievance Window on 21.11.2022.

7. It is pleaded that no action was taken and to the contrary show cause notice dated 21.09.2023 (Annexure P12) was issued, calling upon petitioner to show cause regarding violations of clauses 16 and 20 of terms and conditions of tender. It was alleged that petitioner had sublet the contract to Sanjay Kumar in violation of clause 20 of terms and conditions of Transport tender. It is stated in show cause notice dated 21.09.2023 that this fact came to notice of office after passing of judgment dated 22.09.2022. Petitioner was asked to show cause as to why action be not initiated and security amount be not forfeited and the Firm blacklisted.

8. Reply dated 02.10.2023 was submitted by petitioner (Annexure P13). Personal hearing was afforded. In the meantime, petitioner again requested respondents vide e-mail dated 14.11.2023 to release security amount alongwith payments towards pending bills. When no action was taken, CWP-8439-2024

CWP-25019-2025 (O&M)

was filed challenging validity and legality of show cause notice dated 21.09.2023. CWP-8439-2023 was disposed of on 18.04.2024 on the basis of statement of learned counsel for respondent to the effect that matter could not be finalized as competent authority had been transferred and that matter would be finally decided in accordance with law upon new incumbent joining office and after fresh notice to petitioner affording him an opportunity of hearing. Personal hearing was afforded on 22.08.2024 as well as 23.12.2024. Detailed written reply dated 27.08.2024 was submitted by petitioner in the intervening period. It is stated that without adverting to facts and circumstances, impugned order dated 07.01.2025 was illegally passed, directing forfeiture of 50% of security amount against PDS Transport tender of Sub Division NIT Faridabad as well as blacklisting for one year. Aggrieved therefrom, present writ petition has been filed.

9. Learned counsel for petitioner vehemently argued that impugned order has been illegally passed inasmuch as petitioner had only appointed Sanjay Kumar to assist in logistical tasks and day to day operations. Petitioner explicitly undertook to be fully responsible for any lapses and deficiencies if found in the conduct of Sanjay Kumar. Affidavits to this effect have been duly accepted by authorities in the year 2015. Therefore, authorities cannot now turn around and allege violation of clause 20 of terms and conditions of contract. There is extraordinary and unexplained delay in initiation of such proceedings which have led to forfeiture of 50% of security as well as blacklisting of petitioner. Violation of principles of natural justice, procedural fairness in administrative propriety were urged. This belated action, it is submitted, could not have been taken by respondents. Petitioner had been regularly pursuing refund of his lawfully security and unpaid dues and such punitive action clearly

indicates retaliatory measure. Personal hearing afforded to petitioner was a mere ritualistic activity. There is no rational basis for punitive measures ordered against petitioner. Impugned order dated 07.01.2025 is a totally non-speaking order with no finding on the actual performance of contractual obligations being rendered. Clean acquittal of petitioner in FIR No. 22 dated 16.01.2016 has been completely disregarded. Mere reliance on legal opinion which is without any basis is not justified in the facts and circumstances. It is submitted that alleged shortage of 42.49 quintal wheat valued at Rs. 69,206/- is not on the basis of any cogent material or evidence on record. It was, thus, prayed that this petition be allowed.

10. Learned counsel for State on advance notice, refuted the arguments as raised. Learned counsel for respondents submitted that petitioner has been taking vacillating stands in respect to appointment of Sanjay Kumar as per his convenience. It is only after examining his stand in criminal proceedings where he has palmed off entire responsibility upon Sanjay Kumar that question of violation of clause 20 of terms and conditions of agreement came to fore and legal opinion in this regard was accordingly sought. Learned counsel for State further submitted that in fact authority has taken a lenient view and has directed forfeiture of only 50% of security instead of 100% which could have been done. Argument regarding quantification of damages was refuted on the premise that this shortage is very well apparent. Reference was made to proceedings as are recorded in criminal trial and duly noted in judgment dated 22.09.2022. It was, thus, prayed that this writ petition be dismissed.

11. We heard learned counsel for parties and have gone through the file carefully.

12. Award of contract/work order in respect to old Faridabad and NIT as noted above is a matter of record. Learned counsel for petitioner had laid great stress on Sanjay Kumar being appointed only for logistical tasks and day to day operations which it was stated had been duly accepted by the Department. All arguments raised by learned counsel for petitioner fall to the ground like a pack of cards on a bare perusal of his statement recorded under Section 313 Cr.P.C. in proceedings arising out of FIR No. No. 22 dated 16.01.2016. Relevant portion thereof, reads as under:

"On 16.01.2016, I had taken the contract of Public Distribution System from CONFED department. My duty was to arrange trucks and to distribute the controlled goods from F.C.I. Godown to the Depot holder. I had supplied a list of 15-16 trucks to CONFED Faridabad. The registration number of the trucks were mentioned in that list. In the month of September, 2015, I fell ill and so I authorized accused Sanjay to work as contractor. **Accused Sanjay also executed an affidavit on 07.09.2015 to the effect that thereafter, he would be responsible for any work done by him as contractor. The copy of said affidavit has already been placed on file** (emphasis added). I am innocent and I have been falsely implicated in this case."

13. It is apparent that before learned trial Court, petitioner took a specific stand that Sanjay Kumar would be responsible for any work as done by him as contractor, therefore, he cannot be held responsible for any act of said Sanjay before/in relation to the Department, however, in present writ petition, stand taken is that Sanjay Kumar was appointed only for logistical tasks and day to day operations.

14. In our considered opinion, it is not open for petitioner to take these vacillating stands as per his convenience. Petitioner cannot on one hand escape criminal liability by saying that it was entire responsibility of Sanjay Kumar and at the same time take a plea that there was no assignment or subletting of contract which is specifically prohibited by clause 20 of terms of conditions of tender. Clause 20 of terms and conditions of agreement reads as under:-

"The contractors shall not sublet, transfer or assign the contract or any part thereof. In the event of the contractors contravening the conditions the Confed shall be entitled to place the contract elsewhere on the contractors account and at their risk and the contractors shall be liable for any loss or damage which the Confed may sustain in consequence or arising out of such replacing of the contract. His security shall also be forfeited and he will be black listed."

15. In the given facts and circumstances, it cannot be said that there was any delay on the part of department in initiating proceedings against petitioner. It is only on examination of judgment dated 16.01.2016 that such facts came to light of the Department. Show cause notice was issued on 21.09.2023 after seeking legal opinion.

16. Learned counsel for petitioner was unable to point out any procedural irregularity or infirmity in proceedings undertaken by Department leading to forfeiture of 50% of security and blacklisting for one year. There is no violation of Article 14 and 19(1)(g) of Constitution of India as was urged. Impugned order dated 07.01.2025 cannot be termed to be non-speaking order or unjustified.

17. No other argument was addressed.

CWP-25019-2025 (O&M)

18. Learned counsel for petitioner is unable to point out any ground whatsoever which calls for interference in exercise of jurisdiction under Article 226 of Constitution of India.

19. Writ petition is, accordingly, dismissed.

(LISA GILL)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

September 24, 2025
Rts

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No