

In the High Court of Punjab and Haryana, Chandigarh

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COCP NO.565 of 2006 (O&M)

.....

Date of decision: 23.5.2006

Sohan Lal Mittal

.....Petitioner

v.

Ashesh Agrawal and another

.....Respondents

....

Present : Mr.D.D. Bansal, Advocate for the petitioner.

S.S. Saron, J.

This petition has been filed under Sections 10 and 12 of the Contempt of Courts Act, 1971 for initiating contempt proceedings and punishing the respondents for willfully and knowingly flouting the directions of this Court passed in terms of the order dated 05.09.2005 (Annexure P-7) in C.W.P. No.12997 of 2004.

The petitioner who is running a rice mill in the name and style of M/s Vishnu Sales Corporation, Kurali filed a petition in this Court inter alia seeking directions for directing the respondent no.1 therein i.e. Union of India through Secretary, Ministry of Consumer Affairs, Food & Public Distribution (Department of Food & Public Distribution), New Delhi, to declare the final rates of gunny bags retained by the Millers during the crop years 2001-02, 2002-03 and 2003-04. Learned counsel for the parties appearing in the said writ petition were *ad idem* that the writ petition could be disposed of with a direction to respondents no.2 to 5 therein to consider the claim of the petitioner in the light of letter dated 05-07-2005 (Annexure

P-6 with the present petition) issued by the Government of India, Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, New Delhi addressed to the Principal Secretary, Department of Food and Civil Supplies, Government of Punjab, Chandigarh. Accordingly, the writ petition was disposed of with the direction to respondents No.2 to 5 therein to consider the claim of the petitioners, in the light of aforesaid letter dated 05-07-2005 (Annexure P-6). In compliance with the aforesaid order dated 05-09-2005 (Annexure P-7) passed by this Court, the Principal Secretary to Government of Punjab, Department of Food, Civil Supplies and Consumer Affairs, has passed the order dated 22-12-2005 (Annexure P-9), which it is alleged is in violation of the directions of this Court.

Learned counsel for the petitioner contends that the order dated 22-12-2005 (Annexure P-9) passed by the Principal Secretary to Government of Punjab, Department of Food Civil Supplies and Consumer Affairs is not in compliance with the order and directions passed by this Court on 05-09-2005 (Annexure P-7). In fact, the authority has subverted the orders of this court which warrants the initiation of proceedings under the Contempt of Courts Act. It is contended that the rates of gunny bags for the rice were liable to be fixed by the competent authority in due compliance of the order passed by this Court.

I have given my thoughtful consideration to the matter. It may be noticed that insofar as respondent No.1 in the present petition is concerned, no directions were issued to him to decide the matter. Therefore, the contempt petition as against him, is in any case not maintainable. The

Principal Secretary to Government of Punjab, Department of Food, Civil Supplies and Consumer Affairs, was not a party in the said writ petition filed by the petitioner. In any case, the order dated 22-12-2005 (Annexure P-9) has been passed by him in compliance with the order of this court. A perusal of the order dated 22-12-2005 (Annexure P-9) would show that the letter dated 05-07-2005 (Annexure P-6) has been duly considered and has been copiously reproduced in the order that has been passed. Besides, personal hearing was given to the parties concerned and their views were also taken. The petitioner appeared before the Principal Secretary and stated that his intention of filing the writ petition, in question, before this Court was to ensure that the millers are charged @ 60% of the cost of bags used for levy purposes and not that of custom milled purposes for the surplus bags left with them after delivery of custom milled rice. Since the rate of bags used for levy rice was less than that of the bags used for custom milled rice, the petitioners wanted a decision in their favour that less amount be charged from them by the State agencies for the bags left with them. It was further observed that the petitioners were of the opinion that the letter dated 05-07-2005 (Annexure P-6) allowed the State agencies a depreciation of 40% at the rate of bags used for levy purpose. Therefore, the said letter could be interpreted to mean that the millers were also made to pay 60% of the cost of bags used for levy purpose only to the State agencies. It was accordingly clarified to them that if the State agencies were to be reimbursed at the rate of levy bags by the Government of India as well as by the millers, the State agencies shall suffer huge financial loss for which no provision had been made. It was noticed that even if the real intention of the petitioners was to obtain relief that they are made to pay 60%

of the cost of bags used for levy purpose so as to reduce their financial burden, the letter dated 05-07-2005 (Annexure P-6) did not give any relief to the rice millers because the said letter was concerned with allowing depreciation to the State agencies alone and that by no stretch of imagination, it could be believed that the said letter could be interpreted in favour of the millers saying that they shall be made to pay at the rate of bags used for levy purposes. Accordingly, it was decided that the petitioners are not entitled to any relief on the basis of letter dated 05-07-2005 (Annexure P-6).

The said decision of the Principal Secretary to Government of Punjab, Department of Food, Civil Supplies and Consumer Affairs, complies with the order passed this Court on 05-09-2005 (Annexure P-7). Therefore, it cannot be said that any contempt of the order of this court has been committed. The contention of the learned counsel for the petitioner is that the petitioners are entitled to be charged 60% of the cost of gunny bags supplied with the levy rice to the State agencies for the Central pool. The said claim of the petitioners has been duly considered. In case, the petitioner still has any claim in this regard, he may if so advised seek appropriate remedy in accordance with law and the policy instructions issued by the Government of India or any other instructions in this regard. However, the said relief cannot be claimed in exercise of the contempt jurisdiction of this court as the order dated 22-12-2005 (Annexure P-9) has been passed in due compliance with the order of this court and the same is not in any manner shown to be improper. Even otherwise the said order passed by the Principal Secretary to Government of Punjab, Department of Food, Civil Supplies and Consumer Affairs is not subject to judicial scrutiny in contempt proceedings.

In light of the above, the present Contempt Petition is dismissed. However, the petitioner may, if so advised, assail the order dated 22-12-2005 (Annexure P-9) in accordance with law.

May 23, 2006.

(S.S. Saron)

Judge

gurpreet