

(1981) 07 P&H CK 0005

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 355 of 1970

Shri R.K. Dhir, PCS Estate/Officer
Urban Estates

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision: July 27, 1981

Citation: (1981) 3 ILR (P&H) 505

Hon'ble Judges: Rajindra Nath Mittal, J

Bench: Single Bench

Advocate: Amar Dutt, for the Appellant; T.S. Doabia, for State, for the Respondent

Final Decision: Dismissed

Judgement

Rajindra Nath Mittal, J.

This writ petition has been filed for quashing the order of the Registrar dated 13th October, 1969, imposing on the Petitioner a surcharge of Rs. 4627.60.

2. Briefly the facts are that the Petitioner was working as a General Manager, Co-operative Super Bazar, Jullundur. He placed an order dated 8th November, 1966 with M/s Dayal Bagh Mills Amritsar for the purchase of 400 pieces of blankets No. 360, 280 pieces of Markets double winter queen and other blankets worth rupees thirty thousand and odd. The blankets could not be sold as they were of inferior quality and there was no demand for them. Consequently he was served with a show-cause-notice dated 12th February, 1968, stating that during the year 1966-67 orders for the purchase of blankets were placed with M/s. Dayal Bagh Wollen Mills, Amritsar, much in excess of the actual requirements of the stores and as a result of indiscriminate purchases heavy stocks of blankets had accumulated in the store. After an ex-parte enquiry the Petitioner was served with show-cause-notice dated 23rd May, 1968 u/s 54 of the Punjab Co-operative Societies Act, 1961 (hereinafter referred to as "the Act") by the Registrar of Co-operative Societies as to why the Petitioner should not be ordered to pay Rs. 9,255 20 as surcharge to the Central Co-operative Consumers Stores, Jullundur, on account of alleged amount of loss.

The Petitioner submitted a reply to the show-cause-notice. The registrar, however, imposed a surcharge of Rs. 9255.20 u/s 54 of the Act. The Petitioner went up in appeal against the order of the Registrar, Co-operative Societies, to the Secretary, Cooperative Department, Punjab, Chandigarh, who modified the order of Registrar and reduced the surcharge to Rs. 4627 GO. The Petitioner has challenged the order of the Secretary by way of this writ petition.

It is contended by the learned Counsel for the Petitioner that no loss has been caused to the Store on account of the Petitioner. He further urges that there was no wilful negligence on his part and therefore, no surcharge could be imposed against him. According to him, the Act of purchasing the blankets was also a bona fide one.

3. I have considered the argument of the learned Counsel but regret my inability to accept the same. It is stated in the order of the Secretary to the Government Punjab that the Petitioner while placing orders for the purchase of the blankets failed to take into account the stock in hand, the previous performance of the Store and transactions of sale etc., resulting in over-stocking of blankets of inferior quality; that he did so without the approval of the Purchase Sub-Committee in contravention of bye-law 26 6 of the Consumers Stores and that on account of his decision the funds of the Store were locked up and the store had to bear interest, storage and establishment charges for over two years, which caused deficiency in the assets of the Store. The aforesaid findings are findings of fact and cannot be allowed to be assailed in the writ petition. The question arises as to whether it can be held on the basis of the aforesaid findings that the Petitioner acted in a wilful negligent manner. Being the head of the Store, it was his duty to have followed the bye-law which prescribed that he should take approval of the Purchase Sub-Committee. This solitary act of the Petitioner will tantamount to wilful negligence. Moreover, he was also required to see the previous sales of the Store before placing the order, but for reasons best known to him, he did not do so. It is evident from the order that the Store suffered an amount of Rs. 2776-56 on account of loss of interest and Rs. 1851.04 on account of managerial and storage expenses. It cannot be said that the Store has not suffered the aforesaid loss on account of the conduct of the Petitioner. It is also clear from the order that the blankets could not be sold at least for a period of two years. In the circumstances I am unable to find that the act of purchase was a bona fide one.

4. In the aforesaid circumstances, I do not find any illegality or impropriety in the order of the Secretary. For the reasons aforementioned there is no merit in this writ petition and I dismiss the same with no order as to costs.