

(2011) 07 P&H CK 0169

High Court Of Punjab And Haryana At Chandigarh**Case No:** Civil Writ Petition No"s. 2472 and 2469 of 2001 (O and M)

M/s. Super Packaging Industries

APPELLANT

Vs

The National Fertilizers Limited
and othersRESPONDENT

Date of Decision: July 5, 2011**Acts Referred:**

- Constitution of India, 1950 - Article 14

Citation: (2011) 164 PLR 180**Hon'ble Judges:** K. Kannan, J**Bench:** Single Bench**Final Decision:** Allowed

Judgement

K. Kannan, J.

I. Civil Writ Petition No. 2472 of 2001

1. The writ petition is for issuance of a writ of certiorari to quash the order dated 09.11.2000 (Annexure P-14) passed by the Chief Manager (Projects) on behalf of the National Fertilizers Limited, (a Government of India undertaking), arrayed as the 1st respondent in the petition. The National Fertilizers Limited (NFL) is also sought to be represented through the Chairman-cum-Managing Director. Through the impugned order, the petitioner, who had been granted "ancillary status" was withdrawn.

2. The relationship between the parties have commenced with the Committee called as the Plant Level Committee (PLC) identifying the petitioner as an ancillary unit for manufacture of HDPE bags. After initially eliciting the industrial ability to produce quality bags through a communication made on 16.11.1999, the respondents 1 and 2 had informed the petitioner about the grant of ancillary status as laid down procedure of NFL. The letter dated 16.11.1999 records the fact that the petitioner had completed all the formalities as per NFL laid down procedure and the Plant had

been commissioned and sample approved for a trial order of 75,000 bags. It also states that "the performance of the supplied bags against the order had been satisfactory" and that the ancillary status had been given for supply of 1 lakh bags per month.

3. Subsequently on 06.01.2000, the new requirement was pressed against the petitioner for manufacturing and supplying laminated HDPE bags. The petitioner through the director expressed its inability pointing out to the fact that a lamination plant was not viable for the resources of the petitioner. It is brought through the record that there had been a meeting on 20.01.2000 between the representatives of the petitioner and the respondents 1 and 2. The minutes of the meeting signed by the representatives showed that the petitioner had identified M/s HRK Laminators as an industrial unit which is capable of supplying the requirements of all the ancillary units and which had sufficient lamination capacity. It appears that a team had been constituted to examine whether M/s HRK Laminators could be associated for the work of entrustment of lamination and the report recommended the ancillary status to M/s HRK Laminators, Panipat, for supply of laminated bags so long as they maintained the desired quality as per the NFL specifications.

4. Quiet inconsistent with the report of the petitioner, the respondents had informed that no tender documents for procurement of HDPE bags could be issued to the ancillary units till complete facilities were installed including the lamination plant. This was resisted through representations of the petitioner that the original accreditation granted to the petitioner as an ancillary unit was for supplying of bags at certain numbers with some specified quality and the super-added condition of laminating them was not in the scheme of consideration initially and which had also subsequently explained to the NFL. The impugned order came to be passed on 09.11.2000 by the Chief Manager withdrawing the cancellation of the ancillary status on the ground that the petitioner unit did not have the complete facilities.

5. The respondent is an instrumentality of State and their actions are bound to be tested on the touchstone of Article 14. Arbitrariness is anathema to the constitutional framework of the equality precept and even in the grant of State largesse, a beneficiary has a right to insist that State action will be visited by reasonableness and governed by relevant matters touching upon the decision. The Hon"ble Supreme Court underscored the imperatives of testing State action in the matter of awarding contracts to be reasonable and fair in [Tata Cellular Vs. Union of India](#), . If the petitioner had been granted the ancillary status on the satisfaction secured by respondents 1 and 2 that the petitioner was capable of making the supplies in terms of quantity and quality, it could not have been withdrawn by an additional requirement of having to supply laminated bags. This is all the more relevant in the situation where the matter had been discussed in the meetings of representatives of the petitioner and the respondents 1 and 2 and a team of NFL had itself given a report that yet another industry had the necessary infrastructure

and ability to do the lamination work. The review of ancillary status undertaken by respondents 1 and 2 for alleged lack of complete facilities was bringing in new parameters which was not set at the time when the ancillary status was accorded to the petitioner. The decision contained in the impugned communication is arbitrary and it cannot stand judicial scrutiny. The impugned communication is, therefore, quashed and the petitioner shall be registered as an ancillary unit with all the attendant benefits that he could secure through such status.

6. The writ petition is allowed in the above terms.

II. CWP No. 2469 of 2001

7. This writ petition is in respect of the same subject matter by another industrial unit. The reasoning adopted in the above case will apply with equal force to this case as well. The writ petition in CWP No. 2469 of 2001 is also allowed on the same terms.