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(2014) 175 PLR 313

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 21934 of 2012

Ganpati Rice Mills — APPELLANT

Vs

State of Punjab — RESPONDENT

Date of Decision: March 21, 2014

Citation: (2014) 175 PLR 313

Hon'ble Judges: Ritu Bahri, J

Bench: Single Bench

Advocate: L.S. Sidhu, Advocate for the Appellant; Jarnail Kaur Dhaliwal and Parminder Singh, Advocate for the Respondent

Final Decision: Disposed Off

Judgement

Ritu Bahri, J.
Heard counsel for the parties.

The petitioner is a Rice Sheller and is doing the business of shelling and custom milling of the paddy in the area of Market Committee, Mansa. The

petitioner was issued Form-O Assessment Notice No. 2362 dated 26.9.2011 (Annexure P6) by which he was directed to produce records of

29.9.2011.

The District Mandi Officer and Secretary, Market Committee at the time of conducting inquiry on 13.7.2011 found that there was no paddy in the

sheller. As per the records of the firm there was paddy crop on 13.7.2011 but on physical verification it was found that the same was not there. It

is not disputed by respondents No. 1 to 5 that no Assessment order was passed after the notice was issued. Without passing the Assessment

order Recovery Certificate amounting to Rs. 12,32,033.00 has been issued (Annexure P9). The stand of the respondents is that under Rule 31(3)

of the Punjab Agricultural Produce Markets (General) Rules, 1962 the petitioner could file an appeal before the Mandi Board within 60 days after

depositing 25% of the RDF and market fee.

2. At this stage, reference can be made to a Division Bench judgment of this Court in Puri Oil Mills Limited Vs. Haryana State Agricultural

Marketing Board and Another, where notice to deposit market fee had been challenged on the ground that no assessment order had been passed

and the demand was made without giving an opportunity of hearing. In paragraph 3, the Division Bench observed as under:-

Admittedly, no assessment has been framed and without framing the assessment no demand could be raised, against the petitioner. Allegation

against the petitioner was that it had purchased large quantity of Sarson and Toria from other States and that it had neither deposited the Market

Fee and the HRDF, nor the LL Forms in the office of the Market Committee, Bahadurgarh. Straightaway, it was asked to deposit the Market Fee

and the HRDF within 7 days from the receipt of the notice, Annexure P-1. With the notice, respondents had also attached the details of the

transactions on which Market Fee and the HRDF had not been paid. Petitioner was at least entitled to a notice calling upon it to explain the

purchases made by it of Sarson and Toria from other States on which it had allegedly not paid the Market Fee and the HRDF. Basic principle of

justice is that nobody can be condemned unheard. In this case, petitioner has been fastened with the liability of more than Rs. 75,000/- in an

arbitrary manner without affording adequate opportunity to defend itself.

3. In the facts of the present case, the Recovery Certificate (Annexure P9) has been issued without framing any assessment which is mandatory

under Rule 31(7) of the Punjab Agricultural Produce Markets (General) Rules, 1962. When an order is passed under Rule 31(7) of the Punjab

Agricultural Produce Markets (General) Rules, 1962 then the petitioner can file an appeal under Rule 31(13) of the said Rule. Hence, in the

present case the respondents are requiring the petitioner to pay the market fee as per the Recovery Certificate (Annexure P9) without passing an

assessment order. The Recovery Certificate (Annexure P9) is set aside and the matter is remanded back to the respondents to pass an assessment

order in accordance with law after giving an opportunity of hearing to the petitioner.

The petition is disposed of.