
(2020) 06 MP CK 0034

In the Madhya Pradesh High Court

Case No : Writ Petition No. 7628 Of 2020

Hari Singh

APPELLANT

Vs

Secretary, Krishi Upaj Mandi Samiti & Another

RESPONDENT

Date of Decision : 02-06-2020

Acts Referred:

Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972 — Section 34(1)(b)

Citation : (2020) 06 MP CK 0034

Hon'ble Judges : S. C. Sharma, J

Bench : Single Bench

Advocate : Rajeev Bhatjiwale, Kamal Airen

Final Decision : Disposed Of

Judgement

The petitioner before this Court has filed this present petition being aggrieved by the order dated 20.03.2020 passed by the Krishi Upaj Mandi Samiti, Sujalpur, by which, his Tulawati licence, which was valid w.e.f. 01.04.2019 to 31.03.2020, has been cancelled.

The petitioner's contention is that respondent / Krishi Upaj Mandi Samiti has taken unilateral action against Tulawaties alleging irregularities and orders were passed on 30.10.2018 and 03.11.2018 suspending their licence, against which, a writ petition was preferred by Shramjeevi Tulawati Association i.e. W.P. No.26555/2018 and it was allowed.

The petitioner has further stated that thereafter, a writ appeal was preferred by the Krishi Upaj Mandi Samiti, Sujalpur i.e W.A. No.1412/2019 and the Krishi Upaj Mandi Samiti was given liberty to take appropriate action in accordance with law after issuing proper show cause notice to each and every individual allegedly involved in the matter. The petitioner's contention is that respondents, after hearing the petitioner, have passed the impugned order.

Learned counsel for the petitioner has placed reliance upon a judgment delivered in the case of Harbanslal Shanta & Another v/s Indian Oil Corporation

Limited & Others reported in 2003 AIR SCW 126 and his contention is that alternative remedy is not a bar.

On the other hand, learned counsel appearing for respondent has vehemently argued before this Court that the period of licence was valid up to 31.03.2020 and that period itself came to an end rendering the present writ petition infructuous. He has also argued that a large scale scam took place at Krishi Upaj Mandi, Sujalpur involving 1000 quintal of garlic. The garlic never came to the Krishi Upaj Mandi Samiti and persons like the petitioner, who were Tulawaties, created forged and fabricated documents. He has further stated that criminal cases have been lodged against the employees of Krishi Upaj Mandi Samiti. The licence of traders have also been cancelled and as per liberty granted by this Court action has been taken against the petitioner.

This Court has carefully gone through the order passed by the Division Bench of this Court dated 27.01.2020 in W.A. No.1412/2019 and the same reads as under:

"The appellant before this Court has filed this present appeal being aggrieved by the order passed by the learned Single Judge in W.P. No.26555/2018 (Shramjivi Tulawati Association Vs. Managing Director and another) dated 03.04.2019.

The facts of the case reveal that in respect of large number of irregularities which took place in Krushi Upaj Mandi Samiti, Shujalpur, notices were issued to the Tulawaties and allegation was levelled against them that proper weighing of garlic and onion has not been done.

It is true that specific show-cause notices were issued to each individual. Each individual has filed a reply but a common order has been passed in respect of 34 persons dated 03.11.2018. The order simply says that irregularities have been committed. Neither the contents of the show-cause notice finds place in the order nor the contents of the reply finds place in the order and in those circumstances, the writ petition was allowed.

At this stage, while arguing the matter, the parties have fairly stated before this Court that the matter be remanded back to the Krushi Upaj Mandi Samiti, Shujalpur to pass a fresh speaking order keeping in view the specific show-cause notice and the specific reply filed by the parties.

Resultantly, the matter is remanded back to the Krushi Upaj Mandi Samiti, Shujalpur to pass a fresh order in accordance with law in each and individual cases furnishing all minute details keeping in view the replies filed by the Tulawaties. The aforesaid exercise be concluded within a period of 60 days from the date of receipt of certified copy of this order.

The findings arrived at by the learned Single Judge vide order dated 03.04.2019 will not come in way of Krushi Upaj Mandi Samiti, Shujalpur and the Krushi Upaj Mandi Samiti, Shujalpur without being influenced with the earlier order shall pass a fresh order in accordance with law.

With the aforesaid, present appeal stands disposed of."

The Krishi Upaj Mandi Samiti has taken action as submitted by this Court vide order dated 27.01.2020. Section 34(1)(b) of the Madhya Pradesh Krishi Upaj Mandi Adhiniyam provides for an alternative remedy of appeal before the Managing Director.

In the considered opinion of this Court, once there is an alternative remedy of appeal before the Managing Director, this Court does not find any reason to interfere with the order passed by the Krishi Upaj Mandi Samiti, at this stage specially in light of the fact that the period of licence itself has come to an end. However, the petitioner, if so advised, shall be free to prefer an appeal under Section 34(1)(b) of the Madhya Pradesh Krishi Upaj Mandi Adhiniyam and the same shall be decided in accordance with law.

With the aforesaid, the present Writ Petition stands disposed of.

It is needless to mention that this Court has not observed anything on the merits of the case and has disposed of the writ petition on the ground of availability of alternative remedy, and therefore, the Managing Director shall be free to pass appropriate order in accordance with law keeping in view the facts and circumstances of the case.

Certified copy, as per rules.