
(2014) 08 P&H CK 0165
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 24496 of 2011 (OandM)

Haryana State Auctioneers Association	APPELLANT
Vs	
State of Haryana	RESPONDENT

Date of Decision : 02-08-2014

Acts Referred:

Citation : (2015) 178 PLR 740 : (2014) 4 RCR(Civil) 886

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Sanjeev Gupta, Advocate for the Appellant; Hari Pal Verma, Rishi Lal, Partap Singh, Pankaj Gupta and Jitender Sharma, Advocate for the Respondent

Judgement

K. Kannan, J.—The petitioner is an association of auctioneers operating in State run Mandis in Haryana. They have a grievance that when their services are availed for auctioning the produce brought by the farmers at the Mandi, the rates already determined as payable under the Bye laws of the Committees and as approved by the State at 0.08 paise per Rs. 100/- of grain sold not being paid. The State response is that ever since 2001 the grains are purchased by various agencies and later procured by the FCI at the minimum support price issued from time to time by the Union and consequently the price at which the grains which are sold follow the directives of the government make irrelevant the role of the auctioneers. There is no denying the fact that the general rules issued under the Punjab Agricultural Produce Markets (general rules of 1962) provides under Rule 24 the manner in which the sale of agricultural produce shall take place sub rule 5 of Section 24 states as follows:-

"(5) The auction shall not be conducted by any person other than the person engaged by the Committee:

Provided that under special circumstances the Chairman of the Board or an officer authorized by him may allow a Committee to make or permit any alternative arrangement.

Provided further that nothing in this sub-rule shall apply to the auction of vegetables and fruits."

There cannot be any doubt that if ever there is an auction held and the Bye laws issued by the committee provide for a particular commission or market charges to the auctioneers, that shall be paid. The counsel for the State refers to a letter issued by the Union Minister for Agriculture in response to the recommendation of the State that there would be no justification for having any auctioneers for the purchase of food grains under minimum support price. The letter issued on 16.2.2001 underscores the policy of issuing minimum support price by the government during each marketing season as only to obviate distress sale by farmers and making, possible for FCI or other State agencies to secure the grains at the price already notified and hence they do not come through bidding or auction at the Mandis when the price support system is in operation.

2. There can be no argument on an issue itself so apparent that the auction charges would be collected by auctioneers only if grains are put to auction. If the grains are sold without reference to a process of auction at a pre-determined support price issued by the State then the auctioneers shall not be entitled to any auction charges. However, if a process of bidding or auctioning takes place within the Mandi and price hovers about a minimum support price then it shall be presumed that such higher price shall be possible only in a process of auction and the amounts shall be determined at the rate stipulated in the laws of the committee and paid to the auctioneers.

3. The writ petition gives details of general grievance and does not divulge details of actual work done by the respective auctioneers who are members of the petitioners' association and the charges that are respectively payable to them. I have declared what the rights are and it shall be open to the members of the petitioners' association to work out the rights if they are infringed by independent proceedings. The writ petition is disposed of with the above directions.