

(1995) 04 P&H CK 0064
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4283 of 1994

Ilam Singh and Others

APPELLANT

Vs

The State of Haryana and Another

RESPONDENT

Date of Decision : 25-04-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 113 PLR 157

Hon'ble Judges : M.L. Koul, J;G.S. Singhvi, J

Bench : Division Bench

Advocate : S.P. Singh, for the Appellant; Pawan Mutneja, for the Respondent

Final Decision : Dismissed

Judgement

M.L. Koul, J.—The petitioners are seeking a writ of Mandamus directing respondent No. 2 the Karnal Cooperative Sugar Mills Ltd. to make the payment for the cane sold to respondent No. 2 along with interest for the delayed payment at the rate of 18 per cent per annum and directing the respondents not to insist to purchase Indira Vikas Pattras to the extent of half of the deferred payment to the petitioners. It is contended in the petition that the petitioners sell their cane to respondent No. 2 at the rate fixed by the respondents and they have supplied huge quantity of cane to respondent No. 2 from November, 1993 till the month of January. 1994. However, the price of the cane has not been paid to the petitioners by respondent No. 2 on one pretext or the other. It is contended that the petitioners, who are cane growers and members of the Bhartiya Kisan Union, observed strike with effect from 15.1.1994 to 20.1.1994 as a Call was given by the central body of Bhartiya Kisan Union. During this period the supply of sugar cane to respondent No. 2 remained suspended. The respondent Mill is now insisting that the wages of the labourers who were working in the Mill should be borne out by the growers including the petitioners. The respondent Mill is also imposing the cartage charges on the growers. The charges for transporting the cane from the Purchasing Centre to the Mill be also

set off from the price of cane which is due to the growers.

2. The other side filed their objections and controverted the case of the petitioners. It was pleaded that the payments have been made in time except two payments dated 28.3.1994 and 31.3.1994, for the fact that the petitioners had entered into strike and, therefore, the functioning of the Mill was stopped and as a result of which there was delay in the payments.

3. On perusal of the case no proof is coming forth from the petitioners as to what were the terms of the supply of the cane to the respondents, whether it was in pursuance of some government order or on the basis of a contract that the cane was being purchased by the respondents from the petitioners. While going through the contents of the writ petition in its totality, it is found that the parties are governed by some terms of a contract and wherever there is break-down of a contractual liability the matter remains actionable before a Civil Court of law. Wherever the disputed facts of the case are involved no writ jurisdiction can be exercised and the writ of Mandamus is not exercisable within the purview of Article 226 of the Constitution of India. The petitioners have not been able to put forth their case as to what were the terms of their contract and in what manner the payments were to be received by them and what amount was due to them from the respondents and in what manner. The respondents could not also put forth their case in proper perspective and on preponderance of the rival contentions, we are of the considered view that the matter involves the contractual liability between the parties and such a matter can be determined by a Civil Court and this Court cannot go into the disputed facts of the case without evidence having been recorded in the matter. In this regard we are fortified by a judgment of this Court in *Daulat Ram Trilok Nath Commission Agents and Ors. v. The State of Punjab* (1976) 78 PLR 708 wherein Full Bench of this Court has held that a mere claim of money cannot be raised to the pedestal of a statutory or fundamental right.

4. In the present case a sum of money simpliciter is claimed by the petitioners from the respondents and which fact cannot be agitated by Way of prerogative writ of Mandamus and we cannot compel the erring respondents, if at all, for performance of the contractual liability. As per the mandate of Article 226 of the Constitution of India the High Court can issue a writ of Mandamus and can compel performance of constitutional fundamental or public duties and nothing beyond that.

5. In the case on hand money simpliciter is being claimed from respondents by the petitioners and that too on disputed facts which matter cannot be looked into by this Court while exercising its extraordinary jurisdiction. For such matters evidence is to be recorded and the parties are to be provided chance to lead evidence to establish their counter claims. Hence this writ petition is dismissed and the petitioners, if so choose, are left to the ordinary course of civil jurisdiction for determination of their right for recovery of money, if any, in accordance with law.