
(2008) 11 P&H CK 0157
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 10569 of 2008

M/s. Kohinoor Seeds Fields India Pvt. Ltd.	APPELLANT
Vs	
State of Punjab and Others	RESPONDENT

Date of Decision : 04-11-2008

Acts Referred:

Punjab Agricultural Produce Markets Act, 1961 — Section 6(3)

Citation : (2008) 11 P&H CK 0157

Hon'ble Judges : L.N. Mittal, J;A.K. Goel, J

Bench : Division Bench

Advocate : R.S. Rai and Mr. Gautam Dutt, for the Appellant; Piyush Kant Jain, AAG, Punjab for Respondent and Mr. Sameer Sachdeva for Respondent Nos. 2 to 4, for the Respondent

Final Decision : Allowed

Judgement

1. This petition seeks quashing of order dated 07.05.2008 (Annexure P5), giving a direction to the petitioner for obtaining licence under the provisions of the Punjab Agricultural Produce Markets Act, 1961 (for short, "the 1961 Act").

2. Case of the petitioner is that it is a producer of seeds and after producing seeds, the same are converted to certified seeds. Their action is regulated under the Seeds Act, 1966, for which they have obtained a licence. Apart from dealing in certified seeds, the petitioner does not deal in any agricultural produce covered under the provisions of the 1961 Act and the Rules. The petitioner is, thus, under no obligation to obtain any licence under the 1961 Act nor to pay any fee. The petitioner had filed C. W.P/No. 10398 of 2007 which was disposed of by this Court vide order dated 08.01.2008 (Annexure P4) directing the Market Committee and authorities to reconsider the matter after giving opportunity of hearing to the petitioners. Thereafter, order dated 07.05.2008 (Annexure P5) has been passed, declaring that it was mandatory for the dealers of certified seeds to obtain licence. The said order was illegal. The petitioner could not be required to obtain a licence without there has been any material to show that it is dealing in

agricultural produce. Reliance has been placed on Judgment of the Hon''ble Supreme Court in *Krishi Utpadan Mandi Samiti and Others Vs. Pillibhit Pantnagar Beej Ltd. and Another*, .

3. In spite of adjournments granted twice on 09.07.2008 and 26.08.2008, no reply has been filed by the connecting respondents who put in appearance four months back.

4. No relief has been sought against the State of Punjab and Punjab State Seed Certification Authority who have been impleaded as respondents Nos.1 and 3 respectively.

5. We have heard Learned Counsel.

6. We find that the matter is covered by the judgment of the Hon''ble Supreme Court in *Krishi Utpadan Mandi Samiti (supra)*, wherein in para 36 it was observed:-

36. We are, therefore, of the view that the seeds are not specified agricultural produce under the provisions of the Act and, therefore, the business of purchase and sale of seeds under the supervision of the Seeds Certification Agency established under the Act is not a business of sale and purchase of specified agricultural produce and as such the first respondent is not required to pay the market fee or take out a licence.

7. In view of above observations of the Hon''ble Supreme Court, the impugned order cannot be sustained.

8. Reference to provisions of Section 6(3) of the 1961 Act shows that no person can set up, establish or continue or allowed to continue any purchase, sale, storage and processing of the agricultural produce without a licence. Section 37 of the 1961 Act provides for sentence of imprisonment upto one month apart from fine if there is contravention of Section 6 of the Act. Case of the petitioner is that it is not dealing with agricultural produce in any manner. As per impugned order Annexure P5, no finding has been recorded that the petitioner was carrying on business of agricultural produce. The petitioner could not, therefore, be required to obtain licence.

9. Accordingly, we allow this petition and quash the impugned order Annexure P5.

10. We make it clear if the petitioner is found dealing in agriculture produce, the respondents, will be at liberty to take such action as may be permissible under the law.

11. We also find that the petitioner impleaded the State of Punjab and Punjab State Seed Certification Authority without any justification, for which the petitioner will be liable to pay costs assessed at Rs. 5,000/- each to be paid to respondents Nos. 1 and 3.