
(1991) 11 P&H CK 0001

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 15319 of 1991

Punjab State Cooperative Supply and Marketing Federation
Ltd.

APPELLANT

Vs

Commissioner (Appeals) Jalandhar Division

RESPONDENT

Date of Decision : 28-11-1991

Acts Referred:

Citation : (1992) PLJ 695 : (1993) 1 RRR 496

Hon'ble Judges : A.L.Bahri, J and V.K.Bali, J

**Advocate : Amer Singh, Advocate, Bhagwant Singh, Advocate., Advocates for
appearing Parties**

Judgement

A.L Bahri and V.K. Bali, JJ.—Service is complete.

2. The Punjab State Cooperative Supply and Marketing Federation Ltd., known as MARKFED, is the petitioner in this writ petition filed under

Articles 226 and 227 of the Constitution for quashing orders Annexures, P. 1, P.2 and P.3 passed by the Arbitrator, the Appellate Authority and

the Revisional Authority.

3. Respondent No. 4, The Jalal Cooperative Agricultural Society, Jalal, sold fertilizers and claimed subsidy from the Government. Papers were to

be routed through Markfed through its District Manager's Office to the Agriculture Department, Government of Punjab. The subsidy having been

received by the Markfed was not passed on to respondent No. 4 which raised a dispute under the Punjab Cooperative Societies Act which was

referred to the Arbitrator. The Arbitrator gave Award on April 20, 1990, Annexure P.1 against the Markfed for payment of the amount of Rs.

72290.25 and, interest upto December 31, 1981 at the rate of 17% amounting to Rs. 47,183.75 and costs of Rs. 1000/. An appeal was filed by

the Markfed which was dismissed as barred by time while holding that there was no sufficient ground for condonation of delay in filing the appeal.

This order was passed on August 9, 1990 by the Joint Registrar, Cooperative Societies. Further revision was taken to the Commissioner,

Jalandhar Division which was dismissed on May 15, 1990.

4. The stand of the petitioner Markfed is that there was no privity of contract between the petitioner and respondent No. 4 which was an independent Society. Further it is alleged that delay in filing the appeal should have been condoned and the Appellate Authority should have decided the case on merits.

5. In the reply, stand taken up by respondent 4 is that a finding was recorded by the Arbitrator on the evidence produced that the subsidy due to

respondent No. 4 was sent to the Markfed by the Agriculture Department and the same was not further paid to respondent No. 4 and Award was

rightly made. It is further the case of the respondent that no sufficient ground was shown for condoning the delay and orders passed by the

Appellate Authority on revision by the Commissioner were perfectly valid.

6. After hearing counsel for the parties we find no merit in this writ petition. There was 61 days' delay in filing the appeal by the Joint Director. No

sufficient cause was shown by the petitioner except that it took more time for obtaining approval for filing the appeal. Period of 60 days is provided

under the Punjab Cooperative Societies Act for filing appeal. The Legislature has provided this period after taking into consideration necessary

time required for filing the appeal. If there was delay in filing the appeal a sufficient cause was required to be shown. It was not shown how the

papers moved and when the approval for filing the appeal was given. In such circumstances there was no option with the Appellate Authority but

to dismiss the application for condonation of delay in filing the appeal and dismissing the appeal as same was barred by time.

7. Learned counsel for the petitioner while challenging order Annexure P. 1 passed by the Arbitrator asserted that on a very scanty evidence the

Awarded was made imposing liability to the tune of more than a lac of rupees which was not proper. We are not convinced with this argument.

The Award is based on evidence produced before the Arbitrator indicating that the subsidy amount was paid by the Government to the Markfed

relating to sale of fertilizer by respondent No. 4. Furthermore in the written statement it was specifically pleaded by the respondent that the

Government had sent the amount due to respondent No. 4 to the Markfed. No rejoinder to the same was filed and we find no ground to interfere

with the impugned orders passed. Dismissed with costs which are assessed at Rs. 1000/.