
(1963) 02 P&H CK 0010
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 614 of 1962

Santokh Singh

APPELLANT

Vs

The Punjab State and others

RESPONDENT

Date of Decision : 07-02-1963

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1963) 02 P&H CK 0010

Hon'ble Judges : P.C. Pandit, J;D.K. Mahajan, J

Bench : Division Bench

Advocate : D.C. Gupta, for the Appellant; H.S. Doabia, Additional Advocate General, for the Respondent

Final Decision : Dismissed

Judgement

P.C. Pandit, J.—This is a petition under Article 226 of the Constitution challenging the order dated 25th October 1961 of the Pepsu Land Commission holding that the Petitioner was not entitled to exemption of any land for his diary-farm.

2. According to the allegations of the Petitioner, he was a displaced person and was given about 3000 bighas of agricultural land in village Munshiwala, district Sangrur, by way of gentry grant by His Highness, the Maharaja of Patiala of the erstwhile Patiala State, in 1948. Later on, it was discovered that this land was evacuee property and, consequently, allotment could only be made by the Rehabilitation Department. Accordingly, the said Department allotted 97-13 Standard Acres to the Petitioner in 1950. Out of this area, about 55 bighas were under an old orchard and were allotted to him as such. In 1948 the land was in a very neglected and undeveloped state and the Petitioner, after spending a good deal of expense and labour and using his expert knowledge of agriculture and dairy farming, considerably improved the same Being particularly interested in the cattle breeding and dairy-farm, he earmarked about 33 Standard Acres of this land for a dairy-farm and the same was being used for this very purpose ever since 1948. He duly furnished to the Collector the particulars of his land for

reservation and exemption from ceiling under the Pepsu Tenancy and Agricultural Lands Act, 1955 (hereinafter referred to as the Act). The exemption was claimed for an orchard, dairy-farm, cattle-farm and sheep-farm. The Collector referred the case to the Pepsu Land Commission (hereinafter referred to as the Commission) constituted u/s 32-P of the Act for its opinion regarding the exemption claimed by the Petitioner. By the impugned order, the Commission gave its opinion that the Petitioner was not entitled to exemption of any land for a dairy-farm, because in its opinion the dairy-farm did not come into existence before the Act came into force and the requirements of a dairy as contained in the Rule 30(ii) of the Rules framed under the Act were not being fulfilled. The Commission, however, held that the Petitioner was entitled to exemption for an area measuring 53 bighas and 17 biswas in which there was an orchard at the time when the Act came into force. The present writ petition has been filed challenging the validity of this order.

3. Learned Counsel for the Petitioner has challenged this order on two grounds- (1) that the finding of the Commission that there was no evidence that the dairy-farm was in existence on 30th October 1956 when the Act came into force, was wrong, because there was ample material on the record to show that it had been in existence since 1948. This was, therefore, an error apparent on the face of the order ; and (2) that the Commission, which was dealing with the Petitioner's case, was not validly and legally constituted under the Act and was, thus, not competent to decide his case. According to the provisions of Section 32-P (1) of the Act, the Commission was to consist of a Chairman being a person, who was or had been a Judge of the High Court, and two members to be nominated by the State Government having special knowledge or practical experience of land or agricultural problems. Only the Chairman, Shri Teja Singh, fulfilled the requirement of law for his appointment as Chairman of the Commission. Out of the other two members, Shri Harbhagwan Singh, was an Advocate practicing in this Court, and the order, Shri Lal Singh was or had been Secretary to the Government in the Revenue Department. Both these members had no special knowledge or practical experience of land or agricultural problems and were not thus competent to be appointed as members of the Commission.

4. As regards the first ground the relevant provisions of the Act under which exemption is being claimed are in the following terms: -

S. 32-K. (1) The provisions of Section 32-A shall not apply to-

(i) * * * *

(ii) specialised farms engaged in cattle breeding, dairying or woo(sic) raising. * *

It has been held by a Division Bench of this Court in *Sis Highness Maharaja Sir Partap Singh Malvendra Bahadur of Nabha v. The State Punjab and Anr.* (1963) 66 P. L. R. 82, that Section 32-K (1) (ii) of the Act refers to existing specialised farms engaged in cattle breeding, dairying or wool raising and not to those,

which were brought into being after 30th October, 1956, the date of the enforcement of the Act. The question, therefore, in the present case is whether there was a specialised farm engaged in dairying on 30th October, 1956. The Commission has found as a fact that there was no such farm on the date of the enforcement of the Act. This finding is mainly based on the statement dated 14th December, 1960 of the Petitioner himself in which he had mentioned that the dairy was started in 1958 and that it was still in the process of being built up, because it was not yet complete. It is true that in his statement dated 18th July, 1961 he mentioned that he started a dairy-farm in a part of his land in 1948 and 33 Acres of land had been set apart for that purpose and the cattle were being kept in an old haveli that was in existence even before the land was allotted. He, however, went on to say that he was keeping 12 to 15 milch she-buffaloes, he had also a bull, who later on died about two years ago, and he was proposing to buy a new one with the help of the Department. He admitted that the total number of she-buffaloes in his dairy at that time was 12 and out of them only four or five gave milk and the rest were dry. He did not keep a regular account of the milk yield of each cattle. Only a sort of rough account was kept, but that related to ghee. Before the Commission, the Petitioner also produced Shri Gurbhagwant Singh, Dairy Development Officer, who had visited the Petitioner's farm on 4th December, 1958. According to him, the animals there were very few and the number of milch animals was between 8 to 10. There were no buildings in the farm itself, but there were buildings in the village for this farm. His impression was that it was a "dairy-farm in offing." The sheds were constructed, but they were not constructed according to the scientific basis. Some irrigation facilities were, of course, there and he gathered the impression that the Petitioner was earnest in establishing the dairy-farm. The Commission considered the evidence of the Petitioner and the witnesses produced by him and came to the conclusion that there was no dairy farm in existence on 30th October, 1956. Therefore, the finding given by the Commission is based after the appreciation of the evidence produced by the Petitioner before it. This is a finding of fact and cannot be assailed in writ proceedings. It is pertinent to mention that if there was no dairy-farm in existence on 30th October, 1956, the question whether there was a specialised farm engaged in dairying, as required by law, does not arise. There is, thus, no force in this contention.

5. As regards the second ground, in the first place, this point was not raised before the Commission. If it had been raised, then the Commission would have examined the same and evidence would have en forthcoming on the record to prove that "the said two members had requisite qualifications under the Act. Secondly, in the return filed he State, it has been mentioned that so far as Shri Bhagwan Singh was concerned he owned 60 bighas of land, which had been under his personal cultivation for the last 6 or 7 years. In 20 bighas he bad planted an orchard. He had, thus, practical knowledge of the land. Besides, he had written two or three articles on land reforms, when the Act was being debated in erstwhile Pepsu Assembly. He had also the background of revenue

cases, which he had been conducting as a lawyer for the last 10 or 11 years. As regards Shri Lal Singh, it was mentioned that he was, at present, holding the post of Additional Secretary, Revenue-cum-Land Reforms Officer. He was the Administrative Secretary for the Administration and implementation of Agrarian laws. Throughout his career, he had been dealing with Revenue Departments. He had also worked as Revenue Secretary in the erstwhile Pepsu State. The reply given by the State clearly shows that these two members fulfil the conditions laid down for their appointment in Section 32-P (1) (b) of the Act. There is, thus, no force in this contention as well.

6. The result is that this petition fails and is dismissed. In the circumstances of this case, however, we will leave the parties to bear their own costs in these proceedings.

Mahajan, J.

7. I agree.