

*Before K. Kannan, J.*

**STATE FARMS CORPORATION OF INDIA LTD.,—Petitioner**

*versus*

**STATE OF PUNJAB AND OTHERS,—Respondents**

**C.W.P. No. 12470 of 2008**

4th May, 2010

*Constitution of India, 1950—Arts. 226—State Government failing to pay amount to a Government of India Undertaking—Punjab Agricultural University admitting its liability subject to its contest with reference to escalated claim made by petitioner—Commissioner directing resolution of dispute between petitioner and University by holding discussions and also suggesting for appointment of an Arbitrator as provided under Clause 7 of terms and conditions of lease—State Government failing to appoint Arbitrator—If arbitral process perceived to be unnecessary in view of stated position of admission of liability then non-payment of amount assessed by petitioner seems inexplicable—No dispute with reference to amount assessed and claimed—Respondent No. 2 directed to release outstanding amount to petitioner.*

*Held*, that the 2nd respondent has not even filed reply to the claim. The 4th respondent has made a halting admission of its liability subject to its contest with reference to the escalated claim which the petitioner has made. The Commissioner, Patiala had directed the resolution of dispute between the petitioner and the 2nd respondent by holding discussions and also suggested that the Punjab Government would appoint an Arbitrator, as provided under Clause 7 of the terms and conditions of the lease. The clause in the terms of the lease are “disputes arising out the lease shall be referred to an arbitrator to be appointed by the Government of Punjab.” It is not known why the Arbitrator was not still appointed. If the arbitral process was perceived to be unnecessary in view of the stated position of admission of liability in the meeting held on 23rd February, 2000, then the non-payment of the amount assessed by the petitioner seems inexplicable. The petitioner states that the revaluation of the assets was undertaken by

a Committee comprising of the representatives of both the Centre and State bodies and a revised bill had been made on 3rd October, 2006. No reply seems to have been sent by the 2nd respondent. There cannot be a dispute, therefore, with reference to the amount which is assessed and claimed by the 2nd respondent. Even the written statement filed by the 3rd respondent is only evasive in the sense it only denies the fact that the assets of the 2nd respondent has not been transferred to the 3rd respondent and that the Managing Director holds only the additional charge of the 2nd respondent. The amount claimed under Annexure P-8 is not specifically denied. In view of the admission by the 4th respondent to a liability of Rs. 1,17,83,830.96 as the value of assets obtained by it from the petitioner, the amount of Rs. 1,37,15,608.65 (Rs. 2,54,99,439.61 minus Rs. 1,17,83,830.96=1,37,15,608.65) shall be released by the 2nd respondent within a period of 4 weeks.

(Para 5)

Ms. Naveender P.K. Singh, Advocate, *for the petitioner.*

Anil Kumar Sharma, Additional Advocate General, Punjab, *for respondent No. 1.*

S.P. Thakral, Advocate, *for respondents 2 and 3.*

None, *for respondents 4 and 5.*

### **K. KANNAN, J**

(1) In the hard climes of docket explosions, a litigation between a Central Government undertaking against a State Government undertaking is the least desired type of litigation. The writ petition exposes an instance of utter lack of sensitivity to a national malady of the State as a Major litigant in Courts. To curb the factious stand-off between state authorities, no change in law of the Civil Procedure Code or the Criminal Procedure Code is going to work. The concern of high ranking bureaucrats requiring the judiciary to buck up to respond to aspirations of people will have no meaning, if the persons at the helm of the affairs in public bodies behave the way they do, as seen from how they have conducted themselves that has led to this litigation. The prefatory expressions are no judicial admonition but a plain observation of a recurrent theme that should serve as a reminder to arrest this trend. Seen in the factual context, it has a purpose to advance.

(2) The petitioner, State Farms Corporation of India Limited is a wholly owned Government of India undertaking. The petitioner obtained on lease a land belonging to the Punjab Land Development and Reclamation Corporation Limited (PLD&RC), arrayed as the 2nd respondent in this case. The initial lease in favour of the petitioner was for a period of 20 years commencing from 1971 to expire in 1991 for the purpose of establishing a center for production and multiplication of improved seeds and allied purposes. The petitioner took over the existing employees of PLD & RC and on the year of completion of the lease, the petitioner did not vacate the premises necessitating an application for eviction under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act of 1973. The Estate Officer took note of the fact that the lease of the land measuring 2776 acres 6 kanals, 9 marlas situated at Village Bholewal Jadid and other six villages in the district of Ludhiana had expired and the continuance of the possession of the petitioner was unjustified and directed the eviction order to be passed on 28th February, 1997. The petitioner must have left it at that and vacated. The petitioner did not stop with it but preferred an appeal against the decision of the Estate Officer to the Commissioner, Patiala. The appeal was dismissed on 27th April, 1998 and while disposing of the appeal, the appellate authority had also given directions as to how the staff of the petitioner-Corporation will be readjusted in the State body, stipulated the mode of transfer of the permanent fixtures and machineries and equipment to PLD & RC and also directed that the petitioner shall stop sowing any crops in the land after the passing of the order. The petitioner still did not see reason and it chose to file a writ petition before this Court which was dismissed on 19th January, 2000. It took 9 years for the authorities to put their heads down for initiating the settlement terms and in a meeting held at the Ministry of Agriculture with regard to transfer of assets with representatives from the Ministry of Agriculture, the State Farms Corporation and the Punjab Government, the petitioner had decided on 23rd February, 2000 to vacate the lands, orchards etc. by 31st March, 2000. The immovable assets including the orchards, socio-forestry and nurseries were to be handed over to the State Government on certain conditions regarding the assessment of the value of the movable assets. The employees and workers were also

handed back to the PLD & RC and the service benefits of employees taken over by PLD & RC was to be distributed in a pro-rata basis.

(3) The outcome of the meeting held on 23rd February, 2000 with all the Chief functionaries of the Central and the State establishments hammering out the proposals for settlement ought to have quelled any further recrimination. The petitioner had been facing several claims at the instance of the employees demanding certain service benefits by means of notices and writ petitions before High Court. The demands were to the tune of Rs. 1,12,58,592.90 and being unable to pay to the employees the pro-rata liability undertaken by them at the meeting referred to above, the petitioner assessed the value of the assets transferred to the 2nd respondent at Rs. 2,41,35,266.31 and sought for adjustment of the claims of the employees and for payment of the balance. As if to get even with the petitioner for the unjust prolongation of retaining possession of the property, it was now the spiteful turn of the 2nd respondent to show the ugly side of its face and not respond to the demand for payment of the value of assets taken over by it. The 2nd respondent dragged its feet and in the meanwhile, the 2nd respondent-Corporation itself appears to have folded up in its operating and the affairs appear to have been taken over by the Punjab State Seeds Corporation Limited, who is arrayed as the 3rd respondent. The Punjab Agricultural University, which is arrayed as the 4th respondent, is also in picture on an averment by the petitioner that the 2nd respondent, after taking over the assets and staff, transferred the same to the University. The State Government also is added as a party on an application that the entire property belonged to the State. The 5th respondent is the Director of the University Seed Farm and it is not seen by any averment by the petitioner as to how the 5th respondent is also made party. The writ petition contains therefore a prayer for payment of Rs. 2,54,99,439.61 as the amount due to it by the transfer of the assets which as per the meeting held by the chief functionaries of the respective organizations was accepted by the 2nd respondent to be paid, although the amount had not been specifically referred to in the proceedings in the year 2000.

(4) From the year 2000 till the time when the writ petition had been filed, it is still a decade and the case is being actively contested with no sense of responsibility from either side to end the litigation and pay what was due by the respondents. The statement had been filed only by the 3rd respondent as a successor body to the 2nd respondent. The Managing Director of the 3rd respondent who is said to hold an additional charge of the post of Managing Director for the 2nd respondent has averred that the assets of the 2nd respondent have not been taken over by the 3rd respondent. The Punjab Agricultural University had filed a written statement and the concern expressed by the 4th respondent is only as regards the employment terms of the employees which they had taken over. The State Government appears to have bifurcated the land out of 2800 acres leased to the petitioner and allowed the University to take 1250 acres along with all the 179 employees of the petitioner-Corporation. Adverting to the contention of the petitioner that the liability of the employees to the tune of Rs. 1.51 crore and odd could be adjusted against the amount due to it, the University has contended that it had accepted an amount due to it, the University has contended that it had accepted an amount of Rs. 1,17,83,830.96 as the value of assets obtained by it and has adjusted the same to the account of the petitioner while discharging the proportionate liability of the petitioner to the employees. The University also takes a strange plea that the petitioner has an alternative remedy under the Companies Act and the writ petition is not maintainable. Quite inconsistently with earlier statement of adjustment, it is also contended that the University had paid an amount approximately to Rs. 50 lacs to the retired employees and an amount of Rs. 44,14,448.04 could be claimed from the 2nd respondent. It is contended that the petitioner's original claim was only to Rs. 1.51 crores but it had subsequently escalated the same to Rs. 2.54 crores which was not acceptable to it.

(5) As I have already observed, the 2nd respondent has not even filed reply to the claim. The 4th respondent has made a halting admission of its liability subject to its contest with reference to the escalated claim which the petitioner has made. The Commissioner, Patiala had directed the resolution of dispute between the petitioner and the 2nd respondent by

holding discussions and also suggested that the Punjab Government would appoint an Arbitrator, as provided under Clause 7 of the terms and conditions of the lease. The clause in the terms of the lease are “disputes arising out of the lease shall be referred to an arbitrator to be appointed by the Government of Punjab.” It is not known why the Arbitrator was not still appointed. If the arbitral process was perceived to be unnecessary in view of the stated position of admission of liability in the meeting held on 23rd February, 2000, then the non-payment of the amount assessed by the petitioner seems inexplicable. The petitioner states that the revaluation of the assets was undertaken by a Committee comprising of the representatives of both the Centre and State bodies and a revised bill had been made on 3rd October, 2006 (Annexure P-8). No reply seems to have been sent by the 2nd respondent. There cannot be a dispute therefore with reference to the amount which is assessed and claimed by the 2nd respondent. Even the written statement filed by the 3rd respondent is only evasive in the sense it only denies the fact that the assets of the 2nd respondent has not been transferred to the 3rd respondent and that the Managing Director holds only the additional charge of the 2nd respondent. The amount claimed under Annexure P-8 is not specifically denied. In view of the admission by the 4th respondent to a liability of Rs. 1,17,83,830.96 as the value of assets obtained by it from the petitioner, the amount of Rs. 1,37,15,608.65 (Rs. 2,54,99,439.61—Rs. 1,17,83,830.96=Rs. 1,37,15,608.65) shall be released by the 2nd respondent within a period of 4 weeks. The petitioner is entitled to adjust the sum due by the university for the amount proportionately due to its employees who are now in the employment of the University. The liability of the University will be treated as discharged only on making the entire amount due by it to the employees which represent the petitioner’s liability. A statement of account shall be submitted by the university to the petitioner within 4 weeks for the entire amount admitted by it. This is a fit case where the functionaries of the 2nd respondent—Corporation shall be answerable to stiff costs for waste of judicial time and the unjust conduct but it serves no purpose transfer the costs from state to central body, both of which operate on public funds.

(6) The writ petition is allowed on the above terms.