***IN THE PUNJAB AND HARYANA HIGH COURT, CHANDIGARH.***

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CWP NO.9469 OF 2013

Shri Amir Singh, Ex-Assistant, s/o Sh. Jaily Ram VPO Sorkhi, Tehsil Hansi, District Hissar (Haryana).

-Petitioner

Versus

1. State of Haryana through Financial Commissioner and Principal Secretary to Govt. of Haryana, Agriculture Deptt. Haryana Civil Secretariat, Sector 17, Chandigarh.
2. Haryana Seeds Development Corporation through its Managing Director, Bays 3-6, Sector-2, Panchkula.

-Respondents

Written statement to the above noted writ petition by Sh. K.R. Sharma, Chief Manager (P&A), Haryana Seeds Development Corporation Limited, Panchkula, on behalf of respondent No.2.

***RESPECTFULLY SHOWETH:***

***PRELIMINARY OBJECTIONS:-***

1. That the present writ petition filed by the petitioner is not maintainable and the same is liable to be dismissed. As a matter of fact, during the internal audit of HSDC, Hisar for the period of July 2003 to September 2003, the internal audit party observed the cases of outstanding amount against the seed growers and found that a sum of Rs.19,785.20 as old recovery of cost of foundation seed supplied to them on credit basis is recoverable form four seed growers. It was informed by RM, Hisar on 9.2.2005 to the committee constituted by Managing Director for settlement of audit paras that letter/reminders were issued to Sh. Amir Singh, the then Assistant, Hisar for submitting the required information, but inspite of repeated reminders he did not submit the required information/detail and it was recommended by committee for taking strict disciplinary action against him. Accordingly, a memorandum vide HO No.7312 dated 14.6.2010 was issued to the petitioner, the then Assistant, HSDC, Hisar who had retired on 31.7.2012 to explain his position as to why the recovery of Rs.19,785.20 may not be made good from him regarding non providing of information/record timely about the outstanding recoveries from seed growers of Hisar unit because he was handling the charge of court cases at Hisar. Due to non taking of timely action by Sh. Amir Singh, the then Assistant, Hisar, the court cases filed against the seed growers were lost by the Corporation and no action was taken at field level. Moreover, the execution of decree was not filed for recovery from concerned growers in the cases which were decided by the Court in favour of corporation. The reply of the petitioner submitted vide his letter No.2501 dated 7.7.2012 was considered and the comments of Sr. F&AO (IAD) were sought on the reply of Sh. Amir Singh. His reply was not considered satisfactory and the internal Audit Department proposed that recovery may be made good from him with interest. After working out the interest factor, the figure of recoverable amount was calculated at Rs.108138/-. The petitioner submitted his reply to the said Show Cause Notice on dated 2.7.2012. The reply of the petitioner was considered and examined as per record but the same was not satisfactory. Hence, it is clear that Sh. Amir Singh is responsible for the loss leading to the audit objection. The submission of the petitioner that the case pertains to the year 1982-83 whereas he joined duty at Hisar in 1992 is wrong because though the case is of old outstanding recoveries of 1982-83 but the decision of the court case against seed growers and fixing of responsibility was dealt with during his tenure as Assistant at HSDC, Hisar.

***ON MERITS:-***

1. That the contents of para no.1 of the writ petition is correct to the extent that the petitioner is resident of State of Haryana. Rest of the contents of this para as stated are wrong and incorrect, hence denied. The petitioner is not competent to invoke extra ordinary writ jurisdiction of this Hon’ble court.

1. That the contents of para No.2 of the writ petition are matter of record and needs no reply.
2. That the contents of para No.3 of the writ petition are matter of record and needs no reply.
3. That the contents of para No.4 of the writ petition are matter of record and needs no reply.
4. That the contents of para No.5 of the writ petition are matter of record and needs no reply.
5. That the contents of para No.6 of the writ petition are matter of record and needs no reply.
6. That the contents of para No.7 of the writ petition are matter of record and needs no reply.
7. That the contents of para No.8 of the writ petition as stated are wrong and incorrect hence denied. It is incorrect to say that the respondent No.2 has not adverted to the objections/defence taken by the petitioner and the facts projected by him in his defence. It is also incorrect to say that without appreciating the facts mentioned in the reply dated 7.7.2010 and without mentioning the reasons as to why the reply of the petitioner was not found satisfactory, the respondent No.2 issued memorandum dated 7.6.2012 to the petitioner for recovery of Rs.108138 alongwith interest @ 18% per annum from the year 1984. As a matter of fact on receipt of reply submitted by the petitioner, further comments of Sr. F&AO (IAD) were sought on the reply of the petitioner and the then Assistant IAD did not found the reply of the petitioner satisfactory and proposed the recovery from the petitioner alongwith interest.
8. That the contents of para No.9 of the writ petition are wrong and incorrect hence denied. It is incorrect to say that there is no provision under which the issue could be reopened by the same authority by way of issuance of second show cause notice. As a matter of fact, during the internal audit of HSDC, Hisar for the period of July 2003 to September 2003, the internal audit party observed the cases of outstanding amount against the seed growers and found that a sum of Rs.19,785.20 as old recovery of cost of foundation seed supplied to them on credit basis is recoverable form four seed growers. It was informed by RM, Hisar on 9.2.2005 to the committee constituted by Managing Director for settlement of audit paras that letter/reminders were issued to Sh. Amir Singh, the then Assistant, Hisar for submitting the required information, but inspite of repeated reminders he did not submit the required information/detail and it was recommended by committee for taking strict disciplinary action against him. Accordingly, a memorandum vide HO No.7312 dated 14.6.2010 was issued to the petitioner, the then Assistant, HSDC, Hisar who had retired on 31.7.2012 to explain his position as to why the recovery of Rs.19,785.20 may not be made good from him regarding non providing of information/record timely about the outstanding recoveries from seed growers of Hisar unit because he was handling the charge of court cases at Hisar. Due to non taking of timely action by Sh. Amir Singh, the then Assistant, Hisar, the court cases filed against the seed growers were lost by the Corporation and no action was taken at field level. Moreover, the execution of decree was not filed for recovery from concerned growers in the cases which were decided by the Court in favour of corporation. The reply of the petitioner submitted vide his letter No.2501 dated 7.7.2012 was considered and the comments of Sr. F&AO (IAD) were sought on the reply of Sh. Amir Singh. His reply was not considered satisfactory and the internal Audit Department proposed that recovery may be made good from him with interest. After working out the interest factor, the figure of recoverable amount was calculated at Rs.108138/-. The petitioner submitted his reply to the said Show Cause Notice on dated 2.7.2012. The reply of the petitioner was considered and examined as per record but the same was not satisfactory. Hence, it is clear that Sh. Amir Singh is responsible for the loss leading to the audit objection. The submission of the petitioner that the case pertains to the year 1982-83 whereas he joined duty at Hisar in 1992 is wrong because though the case is of old outstanding recoveries of 1982-83 but the decision of the court case against seed growers and fixing of responsibility was dealt with during his tenure as Assistant at HSDC, Hisar.

10. That the contents of para No.10 of the writ petition are matter of record and needs no reply.

11. That the contents of para No.11 of the writ petition as stated are wrong and incorrect hence denied. It is incorrect to say that the respondent No.2 without appreciating the facts on record issued the impugned order dated 21.2.2013 and ordered recovery of amounting to Rs.31,914/- (Rs.12,129/- principle amount + Rs.19,785/- interest) from the retiral dues of the petitioner. As a matter of fact the respondent No.2 after appreciation of each and every aspect of the matter and after taking into consideration the plea of the petitioner has passed the impugned order dated 21.2.2013.

12. That the contents of para No.12 of the writ petition as stated are wrong and incorrect hence denied. It is incorrect to say that the impugned order is not speaking one rather a bare perusal of the impugned order goes to show that the respondent No.2 after taking into consideration the objections raised by the petitioner as well as while taking into consideration the material available on record has passed the impugned order. Hence the impugned order is legal and valid and very much sustainable in the eyes of law.

13. That the contents of para No.13 of the writ petition are misleading and hence denied. The submission of the petitioner that the case pertains to the year 1982-83 whereas he joined duty at Hisar in 1992 is wrong because though the case is of old outstanding recoveries of 1982-83 but the decision of the court case against seed growers and fixing of responsibility was dealt with during his tenure as Assistant at HSDC, Hisar.

14. That the contents of para No.14 of the writ petition as stated are wrong and incorrect hence denied. It is incorrect to say that Sh. Y. K. Gupta was responsible for the said recovery. After taking into consideration each and every aspect of the matter the petitioner has already been held responsible and the impugned order for recovery has rightly been passed.

15. That the contents of para No.15 of the writ petition as stated are wrong and incorrect hence denied. It is incorrect to say that respondent No.2 has passed the impugned order in a mechanical way without appreciating the facts given in the reply finding the petitioner guilty and ordering the recovery from retiral dues. It is also incorrect to say that the Managing Director did not apply his mind and passed the impugned mechanical order. Infact the Managing Director after applying his mind and after taking into consideration each and every aspect of the matter has rightly passed the impugned order.

16. That the contents of para No.16 of the writ petition as stated are wrong and incorrect hence denied. In his reply, Sh. Amir Singh, the then Assistant reported that the seed under reference was sold by Sh. Y. K. Gupta, the then Manager, HSDC, Hisar and he did not provide records for filing writ in the court as well as for fixing responsibility of concerned. Moreover, while issuing No Dues Certificate after death of late Sh. Y. K. Gupta, Ex Manager, it was reported by RM, Hisar vide No.3489 dated 14.9.2011 that Sh. Y. K. Gupta, Ex-Manager is also responsible for the losses occurring to the Corporation for non-recovery of outstanding amount from seed growers and no proper action was taken by him during his tenure at Hisar. The losses were caused in the year 1984. As per record, it was also seen that out of four old outstanding dues, recovery of Principal Amount in one case was made good from the farmer in the year 2010, i.e. after 26 years. The Show Cause Notice was issued to Sh. Amir Singh, Ex-Assistant vide Memo No.7312, dated 14.6.2010 for recovery of Rs.108138/-. After having gone through the complete cases, it is held that Sh. Amir Singh, Ex-Assistant is mainly responsible for the losses to the corporation due to non-recovery of the outstanding amounts from the seed growers with interest. But the recovery of interest for 28 years is held to be excessive, since Sh. Amir Singh Ex-Assistant is not solely responsible for the delay in deciding the case. The delay is partly attributed to the Corporation. It is therefore fit and appropriate to limit the interest to the Principal amount. Accordingly, the Principal amount not recovered amounting to Rs.12,129/- and interest equal to the total principal of Rs.19,785/- i.e. a total amount of Rs.31,914/- shall be recovered from the outstanding dues of Amir Singh Ex-Assistant.

17. That the contents of para No.17 of the writ petition as stated are wrong and incorrect hence denied. As stated above, the submission of the petitioner that the case pertains to the year 1982-83 whereas he joined duty at Hisar in 1992 is wrong because though the case is of old outstanding recoveries of 1982-83 but the decision of the court case against seed growers and fixing of responsibility was dealt with during his tenure as Assistant at HSDC, Hisar.

18. That the contents of para No.18 of the writ petition as stated are wrong and incorrect hence denied. It is incorrect to say that the impugned order dated 21.2.2013 is violative of Articles 14 and 16 of the Constitution of India and is liable to be quashed. The reply to sub-paras is as under:-

i) Wrong and incorrect, hence denied. As stated above, during the internal audit of HSDC, Hisar for the period of July 2003 to September 2003, the internal audit party observed the cases of outstanding amount against the seed growers and found that a sum of Rs.19,785.20 as old recovery of cost of foundation seed supplied to them on credit basis is recoverable form four seed growers. It was informed by RM, Hisar on 9.2.2005 to the committee constituted by Managing Director for settlement of audit paras that letter/reminders were issued to Sh. Amir Singh, the then Assistant, Hisar for submitting the required information, but inspite of repeated reminders he did not submit the required information/detail and it was recommended by committee for taking strict disciplinary action against him. Accordingly, a memorandum vide HO No.7312 dated 14.6.2010 was issued to the petitioner, the then Assistant, HSDC, Hisar who had retired on 31.7.2012 to explain his position as to why the recovery of Rs.19,785.20 may not be made good from him regarding non providing of information/record timely about the outstanding recoveries from seed growers of Hisar unit because he was handling the charge of court cases at Hisar. Due to non taking of timely action by Sh. Amir Singh, the then Assistant, Hisar, the court cases filed against the seed growers were lost by the Corporation and no action was taken at field level. Moreover, the execution of decree was not filed for recovery from concerned growers in the cases which were decided by the Court in favour of corporation. The reply of the petitioner submitted vide his letter No.2501 dated 7.7.2012 was considered and the comments of Sr. F&AO (IAD) were sought on the reply of Sh. Amir Singh. His reply was not considered satisfactory and the internal Audit Department proposed that recovery may be made good from him with interest. After working out the interest factor, the figure of recoverable amount was calculated at Rs.108138/-. The petitioner submitted his reply to the said Show Cause Notice on dated 2.7.2012. The reply of the petitioner was considered and examined as per record but the same was not satisfactory. Hence, it is clear that Sh. Amir Singh is responsible for the loss leading to the audit objection. The submission of the petitioner that the case pertains to the year 1982-83 whereas he joined duty at Hisar in 1992 is wrong because though the case is of old outstanding recoveries of 1982-83 but the decision of the court case against seed growers and fixing of responsibility was dealt with during his tenure as Assistant at HSDC, Hisar.

ii) Wrong and incorrect, hence denied. In his reply, Sh. Amir Singh, the then Assistant has reported that the seed under reference was sold by Sh. Y. K. Gupta, the then Manager, HSDC, Hisar and he did not provide records for filing writ in the court as well as for fixing responsibility of concerned. Moreover, while issuing No Dues Certificate after death of late Sh. Y. K. Gupta, Ex Manager, it was reported by RM, Hisar vide No.3489 dated 14.9.2011 that Sh. Y. K. Gupta, Ex-Manager is also responsible for the losses occurring to the Corporation for non-recovery of outstanding amount from seed growers and no proper action was taken by him during his tenure at Hisar. The losses were caused in the year 1984. As per record, it was also seen that out of four old outstanding dues, recovery of Principal Amount in one case was made good from the farmer in the year 2010, i.e. after 26 years. The Show Cause Notice was issued to Sh. Amir Singh, Ex-Assistant vide Memo No.7312, dated 14.6.2010 for recovery of Rs.108138/-. After having gone through the complete cases, it is held that Sh. Amir Singh, Ex-Assistant is mainly responsible for the losses to the corporation due to non-recovery of the outstanding amounts from the seed growers with interest. But the recovery of interest for 28 years is held to be excessive, since Sh. Amir Singh Ex-Assistant is not solely responsible for the delay in deciding the case. The delay is partly attributed to the Corporation. It is therefore fit and appropriate to limit the interest to the Principal amount. Accordingly, the Principal amount not recovered amounting to Rs.12,129/- and interest equal to the total principal of Rs.19,785/- i.e. a total amount of Rs.31,914/- shall be recovered from the outstanding dues of Amir Singh Ex-Assistant.

iii) Wrong and incorrect, hence denied. The recovery has been ordered after following due process of law. The petitioner has been served with show cause notice and after taking into consideration his reply as well as record, the impugned order has been passed. The impugned order is in accordance with law. The petitioner has rightly been held liable to make good the loss.

19. That the contents of para No.19 of the writ petition as stated are wrong and incorrect, hence denied. No law points are involved in this case to invoke the extraordinary jurisdiction of the Hon’ble High Court.

20. That the contents of para No.18 of the writ petition are wrong and incorrect, hence denied. The petitioner is not competent to file the present writ petition.

21. That the contents of para No.21 denied for want of knowledge.

In view of the submissions made above, it is respectfully prayed that the present writ petition may kindly be dismissed with costs being devoid of any merits.

***PLACE Sh. K.R. Sharma, Chief Manager***

***Dt: (P&A), Haryana Seeds Development Corporation Limited, Panchkula, on behalf of respondent No.2***

THROUGH COUNSEL

***( SURESH AHLAWAT )***

***ADVOCATE***

***COUNSEL FOR RESPONDENT NO.2***

**VERIFICATION:-**

Verified that the contents of para no.1 to 17, 18 and 19 of the written statement are true and correct to my knowledge and information derived from the official record and that of contents of para No.17 of written statement are based on legal advice of my counsel which is believed to be correct. No part of it is false and nothing has been concealed therein.

***PLACE Sh. K.R. Sharma, Chief Manager***

***Dt: (P&A), Haryana Seeds Development Corporation Limited, Panchkula, on behalf of respondent No.2***

***IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH.***

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CWP No.9469 of 2013.

Amir Singh

-Petitioner.

Versus

State of Haryana and Ors.

—Respondents.

**I N D E X**

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| Sr.No | Particulars | Dated | Pages | Court fee |
| 1. | Written statement on behalf of respondents No.2 | 31.10.2013 | 1-21 | - |
| 2. | Power of Attorney and authority letter |  | 22-23 |  |

***CHANDIGARH (SURESH AHLAWAT)***

***DT:31.10.2013 ADVOCATE***

***COUNSEL FOR RESPONDENT NO.2***