

From

The Chief Administrator,  
H. S. A. M. Board,  
Panchkula.

To

All the DMEOs &  
the Executive Officers-cum-Secretaries,  
Market Committees in the State.

Memo No. 32181 - 230

Dated: 07-04-15

Subject: Unnecessary guidance sought by the Market Committees.

It has been observed that many Executive Officers-cum-Secretaries of Market Committees enter into unnecessary correspondence with the HSAMB. The Market Committee is the owner and custodian of all the movable and immovable properties vested in it or acquired by it. Section 18 of The Haryana Agricultural Produce Markets Act, 1961 provides as follows:-

*"Every Committee shall be a body corporate as well as a local authority by such name as the State Government may specify in the notification establishing it, shall have perpetual succession and a common seal may sue and be sued in its corporate name, and shall subject to the provisions of Section 32 be competent to sell or otherwise transfer any movable or immovable property which may have become vested in or been acquired by it, and to contract and to do all other things necessary for the purposes for which it is established:*

*Provided that no Committee shall permanently transfer any immovable property except in pursuance of a resolution passed at a meeting specifically convened for the purpose by a majority of not less than three fourth of the members of the Committee and prior approval of the Chief Administrator."*

It is clear that every Market Committee is an independent legal person and is fully empowered as an autonomous corporate body to sue or to be sued and to enter into a contract to sell or transfer its properties with some riders like prior permission of the CA, HSAMB in case of permanent transfer

of immovable property. Section 22 of The HAPM Act, 1961 provides details regarding entering into and execution of contracts by the Market Committees.

Section 40 of the Act provides that a competent authority may pass an order under The HAPM Act, Rules, Regulations or Bye-laws made thereunder. Any person aggrieved by such an order can file an appeal to the Chief Administrator. Therefore, the Chief Administrator is an appellate authority in all such matters against the orders passed by a competent authority which may be a Secretary or a DMEO or any other competent authority as the case may be.

Moreover, a combined reading of all these and other relevant legal provisions makes it clear that the Secretary of the Market Committee being its Executive Officer should take-up and discuss all the issues relating to the working of the Market Committee in its meeting and then take further appropriate action as per the decision of the Market Committee. He is not bound by any law or rule to necessarily seek prior guidance or orders of the Chief Administrator except where specifically provided under the Act like in case of permanent transfer of Immovable Property under Section 18 of the Act. Therefore, all the competent authorities are advised that they need not seek unnecessary guidance/sanction from The HSAMB in matters where they are the deciding/competent authorities. Such correspondence only causes delays and sometimes it also causes complications in the matter.


It has also been observed that the Secretaries of the Market Committees sometimes seek unnecessary advice/prior sanction from the Chief Administrator regarding implementation of legal orders passed in quasi judicial proceedings by appropriate authorities under Section 40 of The HAPM Act. It is clarified here that the Market Committee has to take its autonomous decision as per facts and merits of a particular case as decided by the Appellate Authority or the Revisional Authority under Section 40 of the Act. The Market Committee has to decide whether to accept the order or to go in appeal against this order or to seek other

appropriate remedies taking into consideration its interests. Needless to say while deciding to take further remedial course i.e. appeal/revision/writ etc. the competent authority should be guided by the law of limitation, its legal implications, provisions of State Litigation Policy etc.

It has also been observed that particular cases of specific shops/booths etc. are bring routinely sent to the HSAMB for guidance regarding matters like resumption proceedings, levy of simple or compound interest, levy of extension fees, execution of conveyance deed and so on. The Policies framed by the Board as well as the Provisions of The HAPM Act and Rules made thereunder are clear on all these issues. The Chief Administrator being the Appellate authority cannot be expected to guide the original/competent authority in such matter unless there are any specific policy or broad legal issues involved in a particular case. If that is so, than the SMC shall make a case accordingly and seek specific guidance on such a point. The head office has no records of each and every shop or booth. Therefore, only limited queries, if any, can be raised before the Head Office for any specific guidance.


It is, therefore, directed that these instructions may be strictly complied with.

Endst. No. 32231

  
Superintendent (Gen.)  
For Chief Administrator  
Dated 07-04-15


A copy is forwarded to the PS to the ACS (Agriculture) -cum-Chairman, HSAMB for the information of the ACS (Agri.).

Endst. No. 32232 - 39

  
Superintendent (Gen.)  
For Chief Administrator  
Dated 07-04-15

A copy is forwarded to the following for information and necessary action:

1. The Zonal Administrators, Karnal, Hisar and Gurgaon.
2. All the Zonal Marketing Enforcement Officers in the State.

  
Superintendent (Gen.)  
For Chief Administrator