

CWP-5787-2008

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP-5787-2008 (O & M)
Date of Decision: 14.10.2015**

M/s Sanmann Rice Mills, Muktsar

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Arjun Partap Atma Ram, Advocate,
for the petitioner.

Mr. S.S.Chandumajra, Addl. A. G. Punjab.

Mr. O.P.Goyal, Sr. Advocate with
Mr. Nirmal Singh, Advocate for
respondent Nos.3 and 4-FCI.

Mr. Vikas Chatrath, Advocate,
for respondent No.6-MARKFED.

Mr. S.S.Sandhu, Advocate,
for respondent no.7-CBI.

Paramjeet Singh, J.

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for setting aside the orders dated 31.12.2005 (Annexure P-6) and 10.12.2007 (Annexure P-8) passed by respondent No.4-Area Manager, Food Corporation of India (for short, 'FCI'), Faridkot whereby the petitioner has been supposedly black-listed for any

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business dealings with the FCI and the petitioner has been directed to replace the sub-standard rice delivered by it during KMS-2004-05 and also to make good the losses suffered by the FCI.

Necessary facts, in brief, as averred in the writ petition are to the effect that in the year 2004-05, the petitioner had supplied custom milled as well as levy rice to the FCI between October 2004 to May 2005. The said rice stocks were allegedly accepted by the FCI and the petitioner had delivered the same according to the specifications after passing the quality control test. The petitioner had supplied the requisite quantity and quality custom milled and levy rice to the FCI. However, respondent No.7-CBI conducted surprise raids at various owned and hired godowns of FCI all over the Punjab on 29/30.09.2005 and drawn samples of rice from godowns of FCI from various places as well as from Muktsar where the petitioner mill is situated. After analysis, the said samples were found to be not meeting the specifications prescribed in the Prevention of Food Adulteration Act, 1954. In the said raids, the rice supplied by the petitioner was also got tested and the same also did not comply with the specifications.

I am not required to give further detailed facts as at the outset, learned counsel for the petitioner stated that he confines his prayer qua blacklisting order dated 31.12.2005 (Annexure P-6).

Respondent No.4 issued the impugned order dated 31.12.2005 (Annexure P-6) whereby it has been decided to stop all the business dealings directly or indirectly with the petitioner-firm with

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immediate effect and name of the petitioner-firm will be recommended to the State Government for such an action as deemed fit in accordance with the provisions of the rules framed by the State Government. Thereafter, the petitioner was issued notice (Annexure P-8) directing to make good the loss suffered by the FCI.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner vehemently contended that impugned order dated 31.12.2005 (Annexure P-6) is not sustainable in the eyes of law. The petitioner cannot be black-listed for all times. Such a black-listing order is against the settled law and reliance has been placed upon the judgment passed by the Hon'ble Supreme Court in ***Kulja Industries Limited vs. Chief Gen. Manager W.T.Proj. BSNL and others*** AIR 2014 SC 9 and the judgment dated 09.01.2014 passed by a Division Bench of this Court in CWP-6-2014, titled '***M/s Radhey Godowns vs. State of Punjab and others***'.

Per contra, learned senior counsel for respondent Nos.3 and 4 vehemently contended that the petitioner has supplied sub-standard custom milled and levy rice which has resulted into heavy loss to the FCI. The petitioner has rightly been black-listed and reliance has been placed upon ***Tapan Kumar Sadhukhan vs. Food Corporation of India and others*** (1996) 6 SCC 101. It was also contended that notice dated 10.12.2007 (Annexure P-8) has been issued to the petitioner for making good the loss caused to the FCI.

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I have considered the rival contentions of learned counsel for the parties.

From the record, it emerges that impugned order dated 31.12.2005 (Annexure P-6) is in the nature of blacklisting and it is mentioned therein that it should be sent to the State Government. In the impugned order (Annexure P-6), period has not been mentioned for which the petitioner has been blacklisted or its business dealings have been stopped.

In view of above discussion, *ex facie*, such an indefinite period of blacklisting is not sustainable in view of the law laid down by the Hon'ble Supreme Court of India in ***Kulja Industries Limited case (supra)*** and a Division Bench of this Court in ***M/s Radhey Godowns (supra)***. Thus, the impugned order dated 31.12.2005 (Annexure P-6) is liable to be set aside. Ordered accordingly.

However, it will not preclude the FCI from passing an appropriate order in accordance with law. It goes without saying that if any adverse order is passed against the petitioner, it would naturally have the liberty to assail the same, in accordance with law, if so advised.

Disposed of in the aforementioned terms.

All the misc. applications shall stand disposed of.

Costs made easy.

14.10.2015
parveen kumar

(Paramjeet Singh)
Judge