In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: September 24, 2015

1. *C.W.P. No. 20443 of 2015*

M/s Shadi Ram Harbans Lal & Co. ... *Petitioner*

Versus

State of Punjab and others ... *Respondents*

2. *C.W.P. No. 20470 of 2015*

M/s Shiv Shakti Rice Industries ... *Petitioner*

Versus

State of Punjab and others ... *Respondents*

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. Karan Gupta, Advocate,
for the petitioner(s).

Paramjeet Singh, J. ***(Oral)***

This judgment shall dispose of CWP No. 20443 of 2015 titled "M/s Shadi Ram Harbans Lal & Co. vs. State of Punjab and others" and CWP No. 20470 of 2015 titled "M/s Shiv Shakti Rice Industries vs. State of Punjab and others" as challenge in both the writ petitions is to clause 14(b) of Custom Milling Policy (Annexure P/3) for crop year 2015-16.

Clause 14(b) of Custom Milling Police for the crop year

2015-16 (Annexure P/3) reads as under:-

"14. Allotment of Paddy:-

a) xx xx xx

b) While allocating paddy for KMS 2015-16 to eligible rice mill, its performance in KMS 2014-15 shall be the sole deciding factor. Installed milling capacity of the mill shall not be any criteria for allocation of paddy. It is clarified that paddy in rice mills at a milling centre should be stored proportionately in rounds of 20% each (of the millers entitlement). The next round of paddy storage should start only after 20% of paddy storage of the previous is completed in each eligible rice mill.

i) The miller who had completed his milling of KMS 2014-15 by 31.01.2015 shall be eligible for 25% additional paddy allocation over and above the quantity of the paddy stored in his mill during KMS 2014-15.

ii) The miller who had completed his milling of KMS 2014-15 by 28.02.2015 shall be eligible for 20% additional paddy allocated over and above the quantity of the paddy stored in his mill during KMS 2014-15.

iii) The miller who had completed his milling of KMS 2014-15 by 31.03.2015 shall be eligible for 15% additional paddy allocated over and above the quantity of the paddy stored in his mill during KMS 2014-15.

iv) The miller who had completed his milling of KMS

2014-15 by 30.04.2015 shall be eligible for 10% additional paddy allocated over and above the quantity of the paddy stored in his mill during KMS 2014-15.

v) The miller who had completed his milling of KMS 2014-15 by 30.06.2015 shall be allocated the same quantity of the paddy as stored in his mill during KMS 2014-15.

vi) The mills which became eligible for allotment of paddy in KMS 2014-15, on or after 01.01.2015 and new rice mills or the rice mills becoming eligible for allotment in KMS 2015-16 shall be allotted a maximum quantity of 2000 MT of Paddy irrespective of its installed milling capacity.

vii) The date of uploading of last Acceptance Note on the portal by the concerned miller shall be deemed to be the last date of completion of milling by that mill.

Provided that, paddy shall be stored with the eligible rice mills as per the order of completion of KMS 2014-15 milling i.e. the paddy shall be stored first at the rice mill which has completed the milling for KMS 2014-15 by 31.01.2015, then at the rice mill which has completed the milling for KMS 2014-15 by 28.02.2015 and so on.

viii) The maximum quantity of paddy to be allocated to those mills which clear their milling dues by depositing the acquisition cost of balance paddy of 2014-15 by 31st May, 2015 MSP + Dami + taxes + cost of bag + labour and transportation charges +

Custody and Maintenance charges + Administrative charges + interest @ 13% and incidental charges as allowed by Government of India to be charged from 01.12.2014, shall be 90% of the stocks actually milled by such millers in KMS 2014-15 by 30.04.2015 i.e., with a cut of 10% on the quantity of paddy milled / rice delivered by such millers by 30th April, 2015.

Further, paddy shall be stored in such rice mills after completing the storage of paddy in the rice mills which have completed their milling by 30.04.2015 at a Centre.

The rice mills which became eligible for allotment in KMS 2014-15 on or after 1.1.2015 or which mills have been established in the current year or mills which have become eligible for paddy allotment in KMS 2015-16 (even though established earlier) shall be last on the priority of paddy storage i.e., paddy in such mills shall be stored after completion of storage of paddy in the mills which deposit the due amount by 31st July, 2015.

Explanation: It is, however, explained that the above stated norms for allocation of paddy may vary depending upon the availability of paddy.

ix) Each allotted miller shall submit MICR cheque drawn in favour of MD of the agency concerned @ Rs. 25 lakh for every 2000 MT of paddy or part thereof stored in his mill.

x) The paddy purchased by the commissioner agent shall not be stored in his own rice mill, if he operates a rice mill also.

xi) For the units from where paddy was shifted by the millers / agency in KMS 2014-15, the quantity of shifted paddy shall be deducted from the maximum paddy to be allotted to that mill without cash security.

xii) The allotted rice mills shall enter into an agreement with the concerned agency as per Annexure by 7.09.2015 and complete all other formalities in this regard, failing which the allotment shall be liable to be cancelled. Signatory to the agreement must be authorized by the owners / partners / Directors through a legally executed document in his favour. However, the overall responsibility shall still rest with the owner rice miller. No paddy shall be stored with the miller till he executes the agreement and signs the necessary documents. A complete set of documents shall be sent by the concerned District Manager to his Head Office.

The power of attorney to run a rice mill can be given only to the shareholder or partner of a rice mill and not to any other person.

The agreement to be executed by the rice millers shall be made in four copies (One original and three attested copies). The District Manager shall retain the original copy of the agreement and one copy each shall be retained by Managing

Director, Deputy Director (Field)//RM/equivalent officer of the concerned agency and the miller concerned.

Signatory to the agreement shall be authorized by the partners / directors in the partnership deed or otherwise all partners shall sign the agreement. No GPA shall be entertained for signing the agreement.

xiii) Each allotted rice miller shall submit a security amount of Rs. 1,50,000/- (Rupees one lac fifty thousand only) in the form of a demand draft in favour of Managing Director of the concerned agency for every 2000 MT of paddy or part thereof stored in his mill. It must reach Head Office of the respective agency by 15.09.2015. No paddy shall be stored in a rice mill which does not deposit the requisite security amount.

For depositing the above mentioned security, the mills allotted to Pungrain shall collect pre-printed Security Deposit Slip from the District Manager, Pungrain. Duly filled slip shall be got checked and signed from the District Manager, Pungrain before deposit with any branch of designated Bank.

xiv) For the purpose of milling of paddy, stocks shall be issued against advance rice by the staff of procuring agencies in lots of 200 tonnes (two stacks) each through a release order and that paddy issued/received without a proper release order shall *be treated as a serious lapse. The next lot of paddy for milling shall be issued only after the resultant rice of previous lot has been delivered to FCI, and the acceptance note and weight check memo have been received and uploaded on the website as required. The agency shall keep a proper record of issuance of release orders of paddy.*

xv) *In case the miller lifts the paddy without R.O. or un-authorisedly converts it into rice, it shall tantamount to defalcation and the department may take any action against the miller. The miller shall be liable to pay the interest @ prevalent SBI rates of Cash Credit Limit per annum for the value of paddy for the duration of defalcation.*

xvi) *Rice millers shall submit Sale Bills to the concerned agency within 7 days of the delivery of rice.*

xvii) *Each rice mill shall maintain the Stock Registers which shall be duly authenticated / verified by the concerned staff (Inspector/AFSO).”*

Learned counsel for the petitioner contends that in the Custom Milling Policy for the crop year 2013-14 (Annexure P/1), there was a clause 14 (b), which reads as under:-

“*b.* *Paddy procured by the agencies shall be equitably distributed amongst all the eligible rice mills at a particular main/permanent/storage milling centre for the purpose of custom milling on the basis of their milling capacity which shall be certified by the concerned District Controller,* *Food, Civil Supplies & Consumer Affairs and as per provisions of this policy. It is further added that to ensure equitable distribution of paddy and speedy milling of the agencies paddy, the rice mills located at the temporary purchase centres/katchi mandis shall be considered at par with the mills located at the main/permanent storage/milling centre."*

Learned counsel further contends that now, clause 14(b) has been changed to the disadvantageous position of the petitioners. Resultantly, the petitioners will not get adequate paddy for milling purposes. Learned counsel further contends that this is legitimate expectation of millers that they should be allotted paddy as per clause 14 (b) of Custom Milling Policy for the crop year 2013-14 .

I have considered the contentions raised by learned counsel for the petitioner(s) and perused the record.

I do not agree with the contentions raised by learned counsel for the petitioner(s) because the policy is framed by the State every year keeping in view probable production of paddy in that crop year and every time, the deficiencies in the previous year policy are taken care of in the new policy. I do not find any illegality in the new policy which specifically states that for allotment of paddy performance of the miller for the crop year 2014-15 shall be taken into consideration. The petitioner never challenged the policy framed for the year 2014-15, rather has relied upon the policy which was prior to that i.e. 2013-14. Present policy specifically says that additional paddy will be supplied to those persons who have completed the custom milling as per the agreement and have supplied the rice within stipulated time. It has also been clarified in the policy that paddy in the rice mills at a milling centre should be stored proportionately in different rounds as per entitlement of the millers based on their performance during previous crop year 2014-15.

In view of above, I do not find any illegality or perversity in the Custom Milling Policy for Kharif Marketing Season 2015-16 (Annexure P/3), rather it can be said that every year when policy is framed, Department becomes wiser from the past experience and tries to rectify the mistakes/deficiencies noticed in the previous year policy.

No ground to interfere in exercise of extra ordinary writ jurisdiction.

Both the aforesaid civil writ petitions are dismissed in limine.

September 24, 2015 **[Paramjeet Singh]**
vkd **Judge**