IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.22857 of 2014
Date of decision:15.01.2015

M/s Vazeedpuria Rice Mills ... Petitioner

versus

State of Punjab and others .... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Mukand Gupta, Advocate, for the petitioner.

Ms. Vandana Malhotra, Additional Advocate General, Punjab.

Mr. Anupam Singla, Advocate, for respondents 4 and 5.

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1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. *(Oral)*

1. Reply filed by way of affidavit along with Annexures R1/1 and R1/2 on behalf of respondents 1 to 3 is taken on record.

2. The order passed by this court on 11.11.2014 required the decision of the State on the basis of the report given by the District Food and Supplies Controller, Mansa to the Commissioner on 30.10.2014. Admittedly, the petitioner is not a defaulter but his father is. The father, who was a proprietor of M/s Punjab Rice

Mills, was a defaulter for 2011 and 2012. The "defaulter" would include a member of the family as per definition but the "family" definition adds the explanation to the effect that, "any member of family claiming himself/herself not to be part of the family being separate and independent shall have to establish his or her financial independence." That is precisely what is sought to be done by the petitioner by placing reliance on the letter of the District Food and Supplies Controller under Annexure P11 that secures the information that there is no financial relationship between the firm run by the petitioner and the firm run by the father. The explanation casts an onus of proof on the person who claims himself not to be part of the family as being separate and independent and establish his financial independence. Even part from Annexure P11, the communication of the Food and Supplies Officers records the fact that the petitioner is residing in a separate house having his residence at Gurdwara Bhagwala and for construction of building, a loan of ₹5 lakh had been taken from the State Bank of Patiala, Industrial Area, Mansa. The same communication also records the fact that the father has separate residence and has separate VAT assessment and electricity connection. It is also brought out from the communication of the Food and Supplies Officer that as per the statement upto the period 29.10.2014 verifying the accounts of the petitioner rice mill and M/s Punjab Rice Mill in which the father had been the proprietor, there was no connection between the two rice mills. The order passed on 20.11.2014 does not advert to Annexure P11 but makes a conjecture that the father may be operating through his son and being father and son, they cannot deny close relationship with each other. Ties of blood can never be lost. A father and son cannot cease to be so even if one disowns the other figuratively. What is necessary for consideration is in spite of such blood ties as a person who claims to be, whether the person proved such a fact or not. The order relied on under R1/1 is not tenable and it is quashed as a subsequent event although not specifically brought under challenge in the writ petition. The decision under R1/1 cannot be given effect.

3. The writ petition is allowed with costs of ₹25,000/- against the State for passing an irresponsible order and in open defiance of the directions given by the court on 11.11.2014 is through the order. The respondents 1 and 2 will make an allotment in favour of the petitioner if the stocks are still lying and such a decision will be taken and informed to the petitioner within a period of 3 days from the date of receipt of copy of this order.

(K.KANNAN)
JUDGE

15.01.2015
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