

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 25533 of 2015

Date of Decision: December 07, 2015

M/s Shiv Rice & General Mills and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. J.K. Singla, Advocate,
for the petitioners.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondents no. 1 to 3 to restrain respondent no.4, who is creating unnecessary hurdles in the business operations of the petitioners and is not permitting the petitioners to avail services of other truck operators or the own fleet of trucks maintained by the petitioners.

Learned counsel for the petitioners has shown the judgments passed by this Court in **C.W.P. No. 21050 of 2012 titled as Garg Bricks**

Company vs. State of Punjab and others, decided on 18.10.2012

(Annexure P/3) and C.W.P. No. 24514 of 2014 titled as M/s Bathinda

Rice Mills vs. State of Punjab and others, decided on 01.12.2014

(Annexure P/4), wherein direction has been issued to decide the complaint. Said judgments cannot be taken into consideration. Hon'ble Supreme Court in **A.P.S.R.T.C. and others vs. G. Srinivas Reddy and others, (2006) 3 Supreme Court Cases 674** has deprecated the practice of disposing of writ petitions by the High Court merely with a direction to the authorities to consider the matter without examining the issue raised in the writ petition. The relevant paragraphs of said judgment are extracted hereunder:-

“18. We may also note that sometimes the High Courts dispose of matter merely with a direction to the authority to 'consider' the matter without examining the issue raised even though the facts necessary to decide the correctness of the order are available. Neither pressure of work nor the complexity of the issue can be a reason for the court to avoid deciding the issue which requires to be decided, and disposing of the matter with a direction to 'consider' the matter afresh. Be that as it may.

19. There are also several instances where unscrupulous petitioners with the connivance of 'pliable' authorities have misused the direction 'to consider' issued by court. We may illustrate by an example. A claim, which is stale, time-barred or untenable, is put forth in the form of a representation. On the ground that the authority has not disposed of the representation within a reasonable time, the

person making the representation approaches the High Court with an innocuous prayer to direct the authority to 'consider' and dispose of the representation. When the court disposes of the petition with a direction to 'consider', the authority grants the relief, taking shelter under the order of the court directing him to 'consider' the grant of relief. Instances are also not wanting where authorities, unfamiliar with the process and practice relating to writ proceedings and the nuances of judicial review, have interpreted or understood the order 'to consider' as directing grant of relief sought in the representation and consequently granting reliefs which otherwise could not have been granted. Thus, action of the authorities granting undeserving relief, in pursuance of orders to 'consider', may be on account of ignorance, or on account of bona fide belief that they should grant relief in view of court's direction to 'consider' the claim, or on account of collusion/connivance between the person making the representation and the authority deciding it. Representations of daily wagers seeking regularization/absorption into regular service is a species of cases, where there has been a large scale misuse of the orders 'to consider'."

In view of above, I am not inclined to issue any direction.

Otherwise also, there are disputed facts as to whether the petitioners have been paying tax qua the vehicles which are used for transport purposes

and there is no material which vehicle numbers are not being allowed to

be used. The writ petition is lacking in many material aspects. At this stage, learned counsel for the petitioners states that he may be permitted to withdraw the instant writ petition.

Dismissed as withdrawn. The petitioners will be at liberty to approach the civil court for the relevant relief.

December 07, 2015

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[Paramjeet Singh]

Judge