In the High Court of Punjab and Haryana at Chandigarh.

CWP-22466 of 2016
Decided on 11.11.2016

Guru Kirpa Rice Mills

--Petitioner

Vs.

State of Punjab and others

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Rajbir Singh, Advocate, for the petitioner

Mr.Anant Kataria, DAG, Punjab

Mr.Harsh Vardhan,Advocate, for
Mr.C.S.Bakshi,Advocate, for respondent Nos.3 and 6

Rakesh Kumar Jain,J: (Oral)

Prayer made in this petition is to quash/modify the Custom Milling Policy for Kharif Marketing Season 2016-17, vide which Clause 14 (b) has been arbitrarily inserted, as per which the lessee mill has to be treated as a new mill and allotment has to be made in terms of the said capacity.

The facts given to me in the Court are that the rice mill is owned by M/S. Chaunda Foods Pvt. Ltd. It leased out the said rice mill to M/s. Mahabir Foods Chaunda which had successfully delivered the rice without any complaint in KMS 2016-17.

The petitioner is aggrieved that it has been awarded 2500 MT paddy for the purpose of shelling whereas the other mills and even the new mills have been awarded more paddy by giving them benefit of 5%.

Grievance of the petitioner is basically against clause 14 (b) of the Custom Milling Policy 2016-17 which reads as under:-

> "While allocating paddy for KMS 2016-17 to eligible rice mills, the performance in KMS 2015-16 shall be the sole deciding factor. The criterion for performance shall be last year's milling i.e.paddy milled and rice delivered till 31.3.2016 **excluding paddy received through Release Orders**. Installed milling capacity of the mill shall not be any criteria for allocation of paddy. For the mills from where paddy was shifted by the millers/ agency in KMS 2015-16, the quantity of shifted paddy shall be deducted from the quantity of paddy to be allotted to that mill. i.e. For all all purposes of paddy allocation, the quantity of paddy shifted through second shifting of paddy from a mill shall be excluded while calculating the performance of that particular mill. The paddy in rice mills at a milling centre should be stored proportionately in rounds of 20% each (of the millers' allocation). The next round of paddy storage should start only after 20% of the paddy storage of the previous is completed in each eligible rice mill. The paddy shall be allotted to all the eligible rice mills in a milling centre subject to the availability of paddy at the milling centre concerned and cut, if any, will be imposed on the quantum of allotment in ratio and proportion on all the mills at that particular milling centre. The quantum of previous year's allocation of paddy, in no way, shall be considered as a right by the miller. Further, it is also clarified that the miller has no right to claim paddy as per his/her milling capacity".

The eligibility for the purpose of allocation of paddy in KMS 2016-17 is based upon the performance in KMS 2015-16 and according to the petitioner, M/s. Mahabir Rice Mill was allotted 4200 MT paddy in KMS 2015-16. The petitioner has submitted that contradictory provisions have been made in the policy as the petitioner has been denied the benefit of allocation of paddy considering it to be a new Rice Mill in terms of Section 14 (VIII) (c) which reads as under:-

> " In case the rice miller changes the lease from one rice mill to another rice mill, the rice mill shall be treated as new rice mill and shall be eligible for allotment of a maximum of 2500MTs paddy. In case, a rice mill was operated on lease last year and the same rice mill is to be operated by the owner party this year, the rice mill shall be treated as new rice mill during 2016-17 and shall be eligible for allotment of a maximum of 2500 MTs paddy".

It is also submitted that some defaulter mills have been given more paddy. In this regard, averment has been made in para 18-A of the petition which read as under:-

> "That not only this the respondent No.2. vide memo No. RP2(Policy) 2016/2980 dated 21.10.2016 issued clarification in the Custom Milling Policy for KMS 2016-17 i.e. in regard to the defaulters, who resumed their milling operations after clearing the dues. It is further mentioned that those millers will get the paddy 2500 MT +1000 MT total 3500 MT. Copy of the letter dated 21.10.2016 is attached herewith as Annexure P-11A".

On the other hand, learned counsel for the respondents has submitted that allotment of the petitioner has been made strictly in terms of the provisions of the policy which is applicable to all and in view of clause 14 (VIII) (c),the petitioner mill who has taken the rice mill on lease for the first time has been considered to be a new rice mill and paddy is allotted accordingly. It is submitted that insofar as defaulter mills are concerned, averments made in para 18-A of the writ petition is self contrary.

The question to be adjudicated upon is as to whether the petitioner has to be allotted paddy on the basis of capacity or on the basis of policy for KMS 2016-17?

The cause shown by the petitioner is without any basis .

Insofar clause 5 of the policy is concerned, it deals with the allocation of mandi and rice mills from the purchase centre which is not applicable to the case of the petitioner as the petitioner is a new rice mill which has to be allocated minimum 2500 MT paddy in terms of the clause already referred to above.

Thus, in view of my above, I do not find any merit in this petition and the same is hereby dismissed.

11.11.2016 **(Rakesh Kumar Jain)**
rr **Judge**

Whether Speaking/Reasoned: Yes/No.

Whether Reportable: Yes/No.