

Sr. No.119

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

**CWP No. 23582 of 2016
Date of decision:05.12.2016**

M/s JPS Uttam Rice Mill Pvt. Ltd.

.....Petitioner

versus

State of Punjab and others

.....Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. G.S.Kaura, Advocate
for the petitioner.

Mr. Anant Kataria, DAG, Punjab.

Mr. Anupam Singla, Advocate
for respondents No. 2 to 4.

Rakesh Kumar Jain, J.(Oral)

This petition is filed by a private limited company, in which it is basically prayed that the respondent may be directed to allot paddy to the petitioner in pursuance of the letter dated 20.10.2016 issued by the District Controller, Food, Civil Supplies and Consumer Affairs, Kapurthala.

However, the petition has been given different colour as it is averred that Jaspal Singh son of Narinder Kaur, Director of the company has entered into politics, joined Aam Aadmi Party and is seeking to contest from Sultanpur and at the behest of respondent No. 5, an ex-cabinet minister of Akali Dal, arrayed as respondent No. 5, the petitioner is not being allotted paddy by Punjab Agro Food Grains Corporation(for short. 'the corporation') i.e. respondents No. 1 to 3. The allotment of paddy was declined by the corporation vide its letter dated 21.10.2016 in which it is, inter alia, averred that the corporation does not have paddy for allotment and that the petitioner is a defaulter of PUNGRAIN, State Bank of India

and commission agents. As a matter of fact, the petitioner should have challenged the validity of letter dated 21.10.2016 in this writ petition but it is submitted by counsel for the petitioner that since he has made a prayer for the issuance of any other writ order or direction, therefore, the prayer for quashing of letter dated 21.10.2016 may also be considered. The petitioner has filed a misc. application i.e. CM No. 14690 of 2016 in which it is averred that the petitioner is not a defaulter of PUNGRAIN.

After notice, the respondent has filed reply today in Court and its copy, is handed over to counsel for the petitioner.

Counsel for the respondent has submitted that the allotment of paddy is governed by Custom Milling Policy, Kharif Marketing Season 2016-17 from which no party can deviate and has referred to clause 11(A) (C) & (D) which are reproduced as under:-

11.A Allotment of rice mills shall be made by a district level committee comprising of district heads of all the procuring agencies headed by the Deputy Director(Field) of the concerned division. District Managers of procuring agencies shall be equally responsible in case of any wrong allotment. If any agency finds any discrepancy in allotment or any violation of the policy, they shall bring these facts to the notice of the Director, Food, Civil Supplies & Consumer Affairs, Punjab for necessary action and his decision in this regard shall be final.

C. All the allotments of rice mills shall be completed before 15.09.2016. After this date, the allotment cases shall be sent to Director, Food, Civil Supplies & Consumer Affairs, Punjab for approval. Allotment once made, shall not be changed. Wherever

any necessary change is required, it shall be done at the level of Director, Food, Civil Supplies & Consumer Affairs, Punjab.

D. If a defaulter mill clears the government/agencies dues of the previous years(s) including Kms 2014-15 and 2015-16 to the full satisfaction of the Government, as mentioned in clause 11(B) above, it can be considered as eligible for allotment from the date all the dues are cleared. However, the rice mill shall have to obtain No Objection/Dues Certificate from all the procurement agencies.”

It is also submitted that as per their information, the petitioner has cleared the dues of the PUNGRAIN on 19.10.2016 and order (Annexure P-1) dated 20.10.2016 was issued by the District Controller, Food Civil Supplies and Consumer Affairs, Kapurthla, therefore, in the absence of information to the petitioner about having cleared the dues of the PUNGRAIN, letter(Annexure P-5) was issued on 21.10.2016 alleging that the petitioner is still a defaulter of PUNGRAIN. He has further submitted that dehors the payment by the petitioner to the PUNGRAIN, the corporation does not have paddy to allot as it has already allotted paddy at five centers and a certificate in this regard is Annexure 2/3, in which it is mentioned that “*it is certified that in the notified mandis of Market Committee, Sultanpur Lodhi, no paddy is coming. Only Basmati 1121 is coming.*”

It is also submitted that paddy lying with the petitioner is not of the farmers as the paddy is purchased by the agency on behalf of the FCI and then it is handed over to the allotted mills for the purpose of

shelling/milling.

Counsel for the respondent has basically questioned the jurisdiction of the District Food and Supply Controller in issuing letter/order(Annexure P-1) by which the corporation has been directed by him to allot paddy to the petitioner. It is submitted that for the purpose of allotment, decision of the District level Committee comprising of district heads of all the procuring agencies, headed by the deputy director (concerned division) has to be there and then the order has to be passed by the Director Food Civil Supplies, Punjab. However, in the present case, no such proceedings have been carried out and counsel for the petitioner could not answer about the jurisdiction exercised by the District Food and Supply Controller in allotment of the mill through the corporation for the purpose of allotment of paddy for milling.

I have heard learned counsel for the parties and keeping in view the aforesaid facts and circumstances, am of the considered opinion that the parties to the lis are bound by the terms and conditions/guidelines contained in Custom Milling Policy, Kharif Marketing Season 2016-17 in which clause 11(A) specifically provides procedure by which the allotment has to be made in which the decision is to be taken by the district level committee comprising of district heads of all the procuring agencies which means that the decision has to be taken with the association of the corporation also which is conspicuous its absence. Counsel for the petitioner has simply denied about the clause 11(A) and other relevant clauses of the policy on the ground that it was not aware of the policy. I am not satisfied with the answer given by counsel for the petitioner. Thus, keeping in view the aforesaid

facts and circumstances, I do not find any merit in the present writ petition and the same is hereby dismissed.

5th December, 2016
Shivani Kaushik

[Rakesh Kumar Jain]
Judge

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>