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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (C) NO. 3246 OF 2016

Chhattisgarh Pradesh Rice Millers Association (A Registered Society), 2nd Floor, Adeshwar Complex, Punjab Oil Mill Gally, Ramsagar Para, Raipur, Tahsil & Director Raipur, Chhattisgarh Ph: 0771- 4009995. Through its Secretary, Mr. Vijay Tayal @ Vijay Kumar Agrawal, S/o Shri Mohan Lal Agrawal, aged about 43 years, R/o (Shri Hanuman Rice Mills) Ward No.4, Ganjpara, Belha, Tahsil Belha, District Bilaspur, Chhattisgarh, PIN 495224

... Petitioner

Versus

1. Union of India, through the Secretary, Food & Public Distribution, Ministry of Consumer Affairs, Food & Public Distribution, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi, PIN 110001
2. State of Chhattisgarh, through the Secretary, Food, Civil Supplies & Consumer Protection Department, Mantralaya, Mahanadi Bhawan, Sector 19, Rakhi 1, Naya Raipur, Raipur, (Chhattisgarh) PIN 492101
3. The Food Corporation of India Limited, through its Chairman Cum Managing Director, 16-20, Barakhambha Lane, New Delhi, PIN 110001
4. Chhattisgarh Civil Supplies Corporation, through its Managing Director, the Hitvad Bhawan, Awanti Vihar, Headquarters, Raipur, (Chhattisgarh) PIN 492006
5. Chhattisgarh State Co-operative Marketing Federation Limited, through its Managing Director, 880, Civil Lines, Headquarters, Raipur, (Chhattisgarh) PIN 492001

... Respondents

For Petitioner	:	Mr. Raj Kamal Singh, Advocate.
For Respondent-Union of India	:	Mr. N.K. Vyas, Assistant Solicitor General.
For Respondent-State	:	Mr. J.K. Gilda, Advocate General.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per Thottathil B. Radhakrishnan, C.J.

04/05/2017

1. Chhattisgarh Pradesh Rice Millers Association, a registered society, is the Petitioner. Union of India, State of Chhattisgarh, Food Corporation of India, Chhattisgarh Civil Supplies Corporation and Chhattisgarh State Cooperative Marketing Federation are among the Respondents.
2. The fundamental issue that is raised relates to the Chhattisgarh Rice Custom Milling Order, 2016. The Paddy Custom Milling Policy 2016-17 of the State of Chhattisgarh for the relevant Kharif season 2016-17 has a bearing on the issue.

3. It appears that the mill owners are obliged to carry out the custom milling as a prelude to their private operation. The obligations of custom milling have to be satisfied at the first instance. The custom milling policy for the season in question requires the rice millers to maintain and deposit 67% Out Turn Ratio (OTR) for the raw rice and 68% OTR for parboiled rice. This prescription is fundamentally the subject matter of challenge in this writ petition where the Petitioner demonstrates with reference to the test milling conducted by the government agencies that the test milling conducted in the presence of officers of Civil Supplies Corporation, Food Corporation of India etc., the OTR obtained for raw rice was only 33.87% and OTR obtained for parboiled rice was only 33.19%. This huge variation from the required OTR prescribed by the State Government under its policy and the achievement in the test milling is at such huge variance that the variations itself is indicative of the fact that the matter requires a second look to answer the request of the Petitioner that compulsions may not be imposed on its members in accordance with 2016-17 policy of the State Government.

4. Learned Advocate General points out that the current season is over and any matter relating to the issue in hand could be agitated by taking it up with the competent authority. To our query, learned Assistant Solicitor General submitted that he has obtained instructions and that the OTR prescribed for rice is uniform throughout India.

5. We think that the issue appears to indicate that there has to be a reconsideration of the OTR fixation. This could be done only by the competent authority well-versed in the relevant aspects. It appears that the State Government of Chhattisgarh has also addressed the Central Government in this regard. While the learned Assistant Solicitor General says that the OTR has been uniformly fixed throughout India, we visualise for ourselves the varying geographical, topographical, climate and other

relevant conditions and resultant qualitative variations in the different food grains etc., that are grown and cropped in various parts of India. This includes different variants of paddy, including different varieties which are cultivated in different parts of India. Obviously therefore we cannot straightaway accept the submission that there is a standard formula for the entire India as regards OTR for rice is concerned. The considerations that may be followed for fixation of OTR in a particular geographical and topographical belt where any particular type of rice is predominantly cultivated may vary drastically from a totally different place with its geographical, topographical and other aspects. The authority which has to decide on this issue would obviously be the Central Government, particularly when inputs have to be taken from the requisite agencies which can advise in this regard.

6. However, the consideration by the Central Government on any issue relatable to the year 2016-17 or for subsequent years cannot linger long. We say this because, for failure or non-performance of obligations in terms of statutory provisions which may have an impact for the year 2016-17, the members of the Petitioner may be facing or are likely to face penal action as well.

7. In the aforesaid format of the matter, we order this Writ Petition directing that the Petitioner may place appropriate representation before the Government of India through its Secretary in the Food & Public Distribution Department in the Ministry of Consumer Affairs, Food and Public Distribution, who may deal with it, or relegate it to or such authority who is competent to deal with such representation, so that all relevant aspects could be looked into and a decision is arrived at within an outer limit of two months from the date of receipt of copy of this order and the representation, whichever is later.

8. If the representation as mentioned hereinabove is not submitted within a period of two weeks from today, the said direction contained in this order will stand discharged automatically by efflux of that period of two weeks. If such representation is made, the authority concerned shall consider it on all aspects and issue decision. Awaiting such decision, any steps for prosecuting any among the members of the Petitioner will stand deferred for a period of three months on condition that the said representation is made by the Petitioner within a period of two weeks from now.

9. Whatever rice, not lesser than the quantity determinable at the ratio based on the test result already conducted by the State Government authorities, is to be made available by the members of the Petitioner on account of milling of rice under OTR, shall be deposited in terms of the policy and such deposited rice shall be accounted for provisionally and subject to the final decision that may be taken by the State Government following the decision that would be rendered on the afore-permitted representation.

10. The Writ Petition is ordered accordingly leaving open all other issues.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge