

CWP-24059-2016

Date of Decision : 23.05.2017

Rishi Pal

.....Petitioner

versus

State of Haryana and others

....Respondents

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. Piyush Kant Jain, Advocate
for the petitioner.

Mr. R.K. Singla, AAG, Haryana.

Mr. K.L. Saini, Advocate for
Mr. Rajesh Sheoran, Advocate
for respondent No. 4.**M.M.S. BEDI, JUDGE (ORAL)**

Through instant writ petition, petitioner, Rishi Pal, claiming himself to be the proprietor of Sunder Lal Aggarwal Rice Mill, Mustafabad, District Yamuna Nagar, has sought issuance of a writ in the nature of *mandamus* for issuance of a direction to the respondents for considering the petitioner for allotment of paddy at par with other Rice Mills during Kharif Marketing Season (KMS), 2016-17 or reserve 4000 M.T. of paddy out of the paddy stock purchased by the State agencies and the Food Corporation of India to award to petitioner the contract for custom milling of paddy, challenging the classification of defaulting premises, incorporated in the Custom Milling Policy of Kharif Marketing Season (KMS), 2016-17 Annexure P-10 dated 23.09.2016, in the light of the judgment in Letters Patent Appeal No. 542 of 2010

decided on 12.05.2010 titled ***Food Corporation of India versus M/s Pooja Rice Mills and others.***

The stand of the respondents No. 1 to 3 and 5 in their written statement is that the petitioner is the sole proprietor of M/s Sunder Lal Aggarwal Rice Mill, Mustafabad District Yamuna Nagar and the said rice mill had been given on lease to Smt. Manju Aggarwal, wife of petitioner, for a period of five years in the name of M/s Hanuman Rice Mill and as per the rent agreement, the petitioner was owner of the said Rice Mill and in said agreement it was specified that the Rice Mill is fully equipped with the machinery and building for the purposes of milling of rice. Thereafter, the said Rice Mill i.e. M/s Hanuman Rice Mill entered into an agreement with HAFED for custom milling of paddy for the year 2009-10. The said mill did not fulfill the terms and conditions of the agreement and made a default in making the delivery of Custom Milling Rice to the Food Corporation of India as per the time specified in the agreement, as such, respondent No. 4 vide letter dated 13.09.2011 intimated the respondents No. 1 to 3 and 5 that the said Mill was defaulter and an arbitration case was pending against that firm and premises and further requested not to register or allot the premises or Mill in other name as per milling policy.

Learned counsel for the petitioner has submitted that no doubt, M/s Hanuman Rice Mill in the name of his wife and M/s Sunder Lal Aggarwal Rice Mill are situated in the same premises. Relationship of petitioner and Manju Aggarwal is also not a disputed fact. In the garb

of the judgment of M/s Pooja Rice Mills (*supra*), the petitioner claims that on account of liability, if any of M/s Hanuman Rice Mill, the petitioner cannot be penalized.

It will not be appropriate for this Court to enter into the disputed question of fact regarding the individual identity of above said two firms. It will be certainly a disputed question of fact to be established on the basis of the material produced to arrive at a conclusion regarding the status of M/s Hanuman Rice Mill viz-a-viz M/s Sunder Lal Aggarwal Rice Mill.

Taking into consideration the relationship of the proprietors of both the Mills and the location of the site of both the Mills, taking into consideration the machinery and building, this petition is disposed of with a direction to the District Food and Supplies Controller, Yamunanagar to determine the status of the petitioner by giving a fair opportunity to the petitioner to establish that it will not be barred under the policy Annexure P-10 of the year 2016-17 and taking into consideration the parameters in the case of Pooja Rice Mill (*supra*). It will also be open to the respondents to allot paddy to the petitioner in case, he is able to establish the independent identity of his concern in the light of Custom Milling Policy of Kharif Marketing Season, 2016-17. It is directed that inquiry may be conducted within a period of one month with effect from 01.06.2017 by giving fair opportunity to the petitioner to produce relevant material. However, it is made clear that it will be open to the respondents to allot paddy to the petitioner in case, he is able

to fulfil any condition imposed upon him to secure the interest of the respondents and the State.

Disposed of with above directions at this stage.

(M.M.S. BEDI)
JUDGE

23.05.2017
Neha

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No