

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

Date of decision: 27.09.2017

**CWP-20535-2017**

M/s Rajesh Trading Co.

.... Petitioner

versus

State of Punjab & anr.

.... Respondents

**CWP-20816-2017**

M/s B.B.Agro Industries

.... Petitioner

versus

State of Punjab & ors.

.... Respondents

**CWP-21498-2017**

M/s Aggarwal Rice & General Mills

.... Petitioner

versus

State of Punjab & ors.

.... Respondents

**CWP-21591-2017**

M/s Northern Agro Industries & anr.

.... Petitioners

versus

State of Punjab & ors.

.... Respondents

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER  
HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI**

Present: Mr. Naresh Prabhakar, Advocate  
for the petitioner in CWP-20535-2017.

Mr. H.S.Brar, Advocate  
for the petitioner in CWP-20816-2017.

Mr. R.V.S.Chugh, Advocate  
for the petitioner in CWP-21498-2017.

Mr. Daman Dhir, Advocate  
for the petitioners in CWP-21591-2017.

Ms. Rameeza Hakeem, Addl. AG, Punjab.

Mr. Vaibhav Gupta, Advocate for  
Mr. K.K.Gupta, Advocate  
for respondent No.3 in CWP-20816-2017.

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**Mahesh Grover, J.(oral)**

Reply, filed on behalf of respondent No.3 in CWP No.20816 of 2017 in Court today, is taken on record.

This order will dispose of above said writ petitions as common questions of law and fact is involved in them, which can be conveniently dealt with by a common order.

The petitioner(s) are aggrieved of Clause 11 (H)(h) of the Milling Policy 2017-18, which impacts them adversely as adherence to it would oust them from the process of allocation of paddy for milling. The offensive clause is extracted herebelow:

*Clause 11(H)(h) Premises of a defaulter miller auctioned by a financial institution/commercial bank shall not be considered for allotment during KMS 2017-18, if there is any objectionable relation between the buyer and the previous owner as far as allotment of paddy is concerned for Custom Milling purposes. Further if the Agency's dues could not be cleared out of the sale proceeds of rice mill/other properties of defaulter miller, in that case also the buyer of this auctioned mill will not be eligible for allotment of paddy during Kharif 2017-18.*

No reply has been filed.

Looking at the urgency of the matter when the milling season is now underway and also for the reason that we have heard learned Addl. AG, Punjab, we deem it appropriate to dispose of the petitions at the motion stage.

Evidently, the purpose of the aforesaid clause seems to be to achieve the laudable objective of weeding out clandestine transactions and discouraging the dubious millers from paddy allocation. It is no secret that the State is confronted with this problem since long and has suffered immensely.

There can, thus, be no quarrel with the latent objective of the condition imposed i.e. to weed out undesirable elements from milling the paddy. State cannot be faulted for the cautious path that it has adopted but at the same time looking at the fact that the petitioners have purchased mills in open auction, which would be largely allay the concern of clandestine and sham transactions, it would be harsh to apply this condition without there being any application of mind by the competent authority to establish what has been described as “objectionable relation between the buyer and previous owner” and similarly the subsequent clause regarding the carry over the burden of the previous defaulters to the present purchasers ought not to be necessarily insisted upon unless such a objectionable relation between previous buyer and owner is established. Indeed if the competent authority comes to the conclusion that there does exist some objectionable relation between the erstwhile defaulting milling owner and the present purchaser there would be a justifiable occasion to make this clause

operational to deny the allocation of paddy.

So what needs to be stated is the necessity of passing a speaking order by the competent authority in this regard. We, therefore, dispose of the abovesaid petitions with a direction to the respondents that the competent authority shall apply its mind to the facts of the case and the claim set up by the millers to conclude the bonafides of the claimants for allocation of paddy. The needful be done as expeditiously as possible preferably within a period of two weeks.

**(Mahesh Grover)**  
**Judge**

27.09.2017  
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**(Raj Shekhar Attri)**  
**Judge**

1. Whether speaking/non-speaking? : Yes/No
2. Whether reportable? : Yes/No