

Sr.No.202

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

**CWP No. 28664 of 2013(O&M)
Date of decision:5.07.2017**

**The Kurali Luxmi Coop. Milling Workshop Kurali, District Mohali and
others**

.....Petitioners

versus

Union of India and others

.....Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. Arun Jain, Sr. Advocate with
Mr. D.D.Bansal, Advocate
for the petitioners.

Mr. Ashok Kumar Arora, Sr. Panel Counsel
for UOI.

Mr. Ajay Kalra, Advocate
for respondent No. 2.

Mr. Daman Dhir, Advocate
for respondent No. 6.

Mr. Tarun Singla, Advocate
for respondent No. 7.

Mr. Rajan Bansal, Advocate for
Mr. B.R.Bansal, Advocate
for respondent NO. 9.

Mr. Rajesh Garg, Sr. Advocate with
Ms. Nimarata Shergill, Advocate
for respondent No. 11.

Ms. Deepali Puri, Addl.AG, Punjab.

Rakesh Kumar Jain, J.(Oral)

The petitioners are the various rice millers who have
approached this Court to quash the condition of 'Pin Point Damage' added to
the bottom of specifications dated 20.08.2013(Annexure P-4) issued for
the supply of Custom milled rice for the Kharif Marketing Season 2013-14

alleging that it is unreasonable and uncalled for and not health hazardous as it does not possess aflatoxin contamination, due to fungal and iron, in any manner, as per the studies/laboratory test conducted by the reputed Government Institutions and for direction to respondents No. 1, 2 & 10 to accept the rice, per Food Corporation of India specifications, covered under Bureau of Indian Standards(BIS) IS 2813:1995(Reaffirmed 2005) edition 3.1 2002-2005 and to restrain respondent Nos. 3 to 9 not to initiate any penal action against the petitioners.

In short, it is alleged that respondent No. 3 i.e. State of Punjab, Department of Food, Civil Supplies and Consumer Affairs, through its procurement agencies i.e. respondents No. 5 to 9 purchased paddy with shell from the open market and delivered the same to the millers for custom milling and resultant rice thereof, is delivered to the Central Pool to Food Corporation of India(FCI), who frames policy for the custom milling of paddy every year as per which paddy supplied to the millers as per their milling capacity and the resultant rice is required to be supplied by the millers as per specifications issued by the FCI, covered under BIS 2813:1995 and within the stipulated period. The grievance of the petitioner is in respect of the declaration of *Pin Point Damage* grains with the schedule of specification to the extent of 0.3% as according to the petitioner the FCI would accept milled rice with *Pin Point Damage* grain upto 0.3% which otherwise should have been upto 0.5% and in this regard, reference has been made to the reply filed by respondent No. 11 in which, in para 14, it is averred that “*it is submitted that Regulation 2.4.6.5 of Food Safety and Standard(Food Product Standards and Food Additives) Regulation 2011,*

provides that damaged grains allowed in rice shall not be more than 5 per cent by weight, which combined with foreign matter, shall not be more than 6 percent by weight.” It is also submitted that even otherwise as per the studies of the research, *Pin Point Damage* grain has no fungus or iron.

On the other hand, learned counsel appearing on behalf of FCI has referred to their averment made in para 5 of their reply which reads as under:-

“Further, the statement that pin point damage grain does find mention under the specifications issued by BIS is not correct. Actually pin pint damaged grains are rice kernels with minute black spots in raw rice which are included in the damaged grain under the quality refraction of rice as it is attributed to certain fungi(micro organism). Pin point damaged rice kernels are considered as damaged grain under FSSAI(formerly PFA Rules)which states that “damaged grains means kernels or pieces of kernels that are sprouted or internally damaged as result of heat, microbes, moisture or weather e.g. ergot effected grains and karnal bunt grains noticed in 2013 is wrong. The pin point damaged grains in rice have been included since KMS 2005-06. During that year relaxation in raw rice both Grade A and Common was allowed for pin point damage to the extent of 1.0% over and above 3.0% damaged/slightly damaged grains in rice to the State of Punjab.”

It is also submitted that beyond 5% the *Pin Point Damage* grains is not fit for human consumption, therefore, the government in its

wisdom has kept the bench mark of 3% because according to the respondents, such type of rice, during its storage may further suffer from the fungus or other infestations.

Counsel for UOI has also referred to para 8 and 9 of its reply which reads as under:-

8. That the contents of para 8 are denied being wrong. It is vehemently denied that pin point damage has been added without conducting any study or any laboratory test. The Central Institute of Post Harvest Technology (CIPHET) Ludhiana studied on the higher blackened grains of paddy variety PAU-201 in the year 2009. the CIPHET in its report stated that the blackening of the grains might be possible due to high iron content, climate change and brown pigmentation in aleurone layer. Analysis of Aflatoxin and Mycotoxin was shown to be negative though certain fungal(Alternia, Fusarium and Rhizopus) presence was conformed. Later on Indian Council of Medical Research(ICMR) was entrusted a study to find out the damaged grains in paddy/rice variety PAU-201 and to assess its impact on human health. ICMR was also requested to assess whether the black/brown coloured portion of the damaged rice contains Iron. Reports of the studies on Pin Point Damaged grains conducted by CIPHET, Ludhiana and Indian Council of Medical Research were provided to FSSAI to obtain their point of view. Pin point damage grains in the category of damaged grains were considered only on the directions of the Food

*Safety and Standard Authority of India. A copy of letter dated 27.09.2010 is being annexed here as **Annexure R1/2**.*

9. That the contents of para 9 do not relate to answering respondent hence need not be replied as it pertains to respondent No. 2 i.e. FCI. However, in reply to sub-para II of para 9 it is denied that damaged/slightly damaged rice grains is accepted to the extent of 3% and pin point damaged was added for the first time at the bottom of specifications for the custom milling year 2008-09. The acceptance of pin point damaged grains to the extent of 1% over and above 2% damaged/slightly damaged grains in case of raw rice Grade A and Common was allowed in the Kharif Marketing Season 2006-07 & KMS 2007-08. However, during KMS 2008-09 pin point damaged grains were included under category of damaged/slightly damaged grains up to the maximum permissible limit of 3.0% without value cut in case of raw rice both Grade A and Common.”

Counsel for UOI has also submitted that as per intimations received from the FCI vide letter dated 4.07.2017, the entire Costom milled rice for the Kharif Marketing Season 2013-14 has already been received in the Central Pool and hence the contention of the petitioner has practically become redundant.

Be that as it may, the question involved in this case is *as to whether the prayer of the petitioner can be accepted to declare the inclusion of pin point damage grain/rice should be increased from 0.3% to 0.5%?*

There is no dispute that pin point damage rice is acceptable to the FCI and the Government upto 0.3% because it can be used for human consumption upto 0.5% but the government of India decided to keep the standard of the pin point damage rice little higher for the purpose of human consumption and fix the maximum limit of 0.3% keeping in view the vagaries of nature much less the further infestation of fungus etc during the period of storage of such rice. Thus, in my considered opinion, there is no scope for interference in this petition and the same is hereby dismissed.

5th July, 2017

Shivani Kaushik

**[Rakesh Kumar Jain]
Judge**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No