

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

CWP No. 12707 of 2016 (O & M)
Date of Decision: 15.1.2018

M/s Satkartar Enterprises

.....Petitioner

v.

State of Punjab and others

.....Respondents

CORAM HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Rajbir Singh, Advocate, for the petitioner

Ms. Deepali Puri, Addl. AG, Punjab

Mr. K.K. Gupta, Advocate, for respondents No. 2, 3 and 6

Mr. Deepak Puri, Advocate, for respondent No. 4

RAKESH KUMAR JAIN, J (Oral) :

The petitioner is rice miller, located at village Sandholi (Bhadson), District Patiala. The petitioner was allotted 1400.324 MT paddy (37342 bags) by respondent No.5 (PUNSUP) in the Kharif Milling Season (KMS) 2015-16. The petitioner has allegedly delivered 12960 bags of rice on 31.3.2016 to the FCI as per specifications whereas it had to deliver total 938.217 MT rice, therefore, 5805 bags of rice were yet to be delivered by it. The petitioner applied for extension of time on 23.5.2016 for delivery of the pending rice. It is alleged that the case was recommended by the Director, Food and Supplies Department, Punjab on 26.5.2016 to the FCI, Punjab Region. The FCI granted the approval on 30.5.2016 to extend the time upto 31.5.2016 for acceptance of the rice. It is submitted that the petitioner had

delivered 8 wagons of rice, each containing 540 bags on 31.5.2016, out of which 5 wagons were cleared but 3 wagons were rejected. The petitioner then filed the present petition for extension of time, which was allowed on 28.6.2016 -

“The writ petition is filed seeking a direction to the respondents to allow the petitioner to deliver the pending wagon of rice to 6th respondent as the same could not be delivered due to shortage of time and also due to rejection of rice wagons by 6th respondent.

Heard the submissions made by learned counsel on the either side.

It is submitted by the writ petitioner that rice is readily available with the petitioner and the petitioner is also ready to pay interest and other expenses as per the Custom Milling Policy.

As the petitioner is ready to pay interest and other expenses, in the interest of justice, the petitioner is permitted to deliver 5.75 wagons i.e. 3105 bags of rice to the Food Corporation of India (respondent No. 6) on payment of interest and other charges that may be imposed by the 5th respondent. The supply of above rice shall be as per the Custom Milling Policy fixed by the 6th respondent within a period of 10 days.”

It is submitted that pursuant to the aforesaid order, the petitioner has deposited Rs. 80,000/-to PUNSUP.

Be that as it may, the order of the learned Single Judge dated 28.6.2016 was challenged by the FCI in appeal bearing LPA No. 1503 of 2016, which was allowed on 21.2.2017 with the following order :-

“This appeal is directed against the judgment of learned Single Judge dated 28.6.2016. The appellants, as Food Corporation of India, have urged before this Court that they are unable to comply with the orders of the learned Single Judge in view of

the constraints of the policy governing the milling of rice. According to them, the concerned millers have to supply them rice by 31.3.2016 and thereafter by 31.5.2016 with interest and penalty and beyond this period, they are unable to accept any rice from the millers. Notice was also issued to the Union of India, who has stated in paras No. 4 and 5 of the reply that if the State Government makes a concession in exceptional cases, then they are enabled to take a decision for acceptance of rice but not later than 31.12.2016.

We noticed from the impugned judgment that the learned Single Judge accepted the unilateral claim put forward by the millers without taking into account the considerations/objections of the appellants, which, in turn, are founded purely on the policy issued from year to year and governs the procurement and supply of paddy/rice. We are, thus, of the opinion that the appellants are being virtually saddled with the liability without taking into consideration their concerns. We, therefore, set aside the impugned order and remit the matter back to the learned Single Judge for decision afresh by taking into consideration the stand of the appellants. The registry is directed to list the writ petition for hearing before the learned Single Judge as expeditiously as possible.

The instant appeal stands allowed.”

Consequently, the matter is before this Court.

Learned counsel for the respondents has submitted that the time cannot be extended because there is a schedule for the period of customized rice milling and its delivery. The period was fixed as 31.3.2016 without interest and thereafter 31.5.2016 with interest and penalty but beyond that the period is to be fixed by the State Government in exceptional cases for acceptance of the rice. The said period should not be later than 31.12.2016.

It is submitted that the State Government has not relaxed the period beyond

31.12.2016. Therefore, neither FCI nor PUNSUP is ready to extend the time for the purpose of delivery of rice. It is also submitted by the respondents that the petitioner is at fault because it had applied for extension of time on 23.5.2016.

Argument of the petitioner that he was given one day for supply is not acceptable as the petitioner itself was at fault for not applying for extension in time further giving sufficient time to the respondents for taking decision on his application.

The application filed on 23.5.2016 was considered by the State Government and order was passed on 26.5.2016 i.e. within 4 days and thereafter, FCI also passed the order on 30.5.2016.

In view of the aforesaid facts and circumstances, specifically when there is no provision for extension of time for delivery of the rice for the season 2015-16 and that the rice might have deteriorated with the efflux of time due to vagaries by natures and may also affect the manner laid down for procurement, the prayer made by the petitioner cannot be accepted.

Accordingly, the present petition is dismissed.

(RAKESH KUMAR JAIN)
JUDGE

15.1.2018

Ashwani

Speaking/Reasoned
Reportable

Yes/No
Yes/No