

CWP No.12939 of 2018 -1-

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

CWP No.12939 of 2018 (O&M)

Date of decision: 21.5.2018

M/s Sherpur Rice Mills

...Petitioner

Versus

Punjab State Grain Procurement Corporation Ltd. and others

...Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr.G.S.Nahel, Advocate for the petitioner.

Rakesh Kumar Jain, J.(Oral)

This petition is preferred against the order dated 28.12.2017 passed by respondent No.1 by which claim made by the petitioner for allotment of paddy for milling for the crop year 2017-18 had been rejected.

In brief, the petitioner firm leased out its premises to respondent No.3 which is a proprietorship firm of Jiwan Kumar, for the period starting from 1.9.2015 to 31.8.2016 by way of lease deed dated 19.10.2015. Respondent No.3 was allotted to the Punjab State Grain Procurement Corporation i.e. agency for the crop year 2015-2016 for the custom milling of paddy. An agreement was entered into between respondent No.3 and PUNGRAIN on 23.10.2015. The petitioner stood as guarantor by swearing an affidavit dated 19.10.2015 and submitted the surety bonds of the same day to the effect that they would be responsible for payment of rice due to the Government towards respondent No.3. The case set up by respondent No.1 is that it had stored 77067 bags of paddy

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weighing 28900-13 quintals for custom milling out of which 67683 bags of paddy weighing 25381-12-500 were issued for milling as per release order. The rice of paddy weighing 19363.08 quintals was to be delivered to the FCI in the account of Pungrain but it had delivered 17790.70 quintals of rice to FCI. In this manner, there was a deficiency of 1572.38 quintals of balance rice. The property of respondent No.3 was attached on 29.3.2016. The District Manager PUNGRAIN Sangrur also filed arbitration claim against the petitioner for recovery of ₹55,78,102/-. The petitioner mill has been declared defaulter in terms of Clause 3 (xv) of the custom milling policy 2017-18 much less in view of Clause 11H(d) of the said Policy which provides that The rice miller(s) who stood as a guarantor(s) for any other miller against whom a court case/police case is registered or arbitration proceedings are initiated on account of embezzlement and/or on account of non delivery of rice relating to custom milling pertaining to any crop year shall not be considered for allotment until such miller for whom guarantee was furnished clears the default of the concerned agency alongwith penal interest at the rates for the relevant year(s) as decided by the Government from time to time.

Counsel for the petitioner has submitted that the petitioner himself has not given any guarantee in regard to the embezzlement and consequently FIR was registered against respondent No.3.

After hearing the learned counsel for the petitioner and perusing the record, this Court has found that there is no merit in his contention because it is categorically provided in Clause 11H(d) of the Policy 2017-18 that because of the pendency of arbitration proceedings

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initiated on account of embezzlement relating to deficiency of 1572.38 quintals of balance rice, shall not be considered for allotment. In the present case, there is no denial to the fact that petitioner had given the guarantee on 19.10.2015 and also furnished his surety bonds on the same day in favour of respondent No.3. It is also not in dispute that respondent No.3 had not supplied 1572.38 quintals of rice for which PUNGRAIN has already filed arbitration claim of ₹55,78,102/- which is still pending. All these factors are sufficient to invoke the provisions of Clause 11H(d) of the Policy 2017-18 on the basis of which the impugned order has been passed. Thus, I am not at all impressed with the arguments of the counsel for the petitioner.

As such, the present petition is found to be without any merit and the same is hereby dismissed.

May 21, 2018
Meenu

(Rakesh Kumar Jain)
Judge

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