

In the High Court of Punjab and Haryana at Chandigarh

CWP No.9568 of 2016

Date of decision: July 09, 2018

M/s Hemkund Rice Mills

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Achin Gupta, Advocate for the petitioner.
Mr. Sahil Sharma, Deputy Advocate General,
Punjab.
Mr. K.K. Gupta, Advocate for respondents No.3 and 4.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed for quashing the order dated 31.12.2005 by which respondent No.4-Area Manager, Food Corporation of India, Bathinda (for short 'FCI') has blacklisted the petitioner for having any business dealings with the FCI for an indefinite period.

The petitioner has a rice mill, which was allotted to the Punjab Stae Warehousing Corporation (respondent No.5) by the State of Punjab during Kharif Marketing Season 2004-05. After five months of the supply, CBI conducted the raid, the samples of the rice were got analysed from the Central Government Analysis Laboratory and all the nine samples, taken at the time of raid, were found to be Beyond PFA Limit (BPFA), i.e. unfit for human consumption and the loss was assessed to the tune of ₹3,44,69,383/-. The petitioner was served with a notice dated 22.11.2005 to make good the loss, to which the petitioner filed

reply on 18.11.2005. Ultimately on 31.12.2005 the impugned order was passed by which respondent No.4 decided to ban all business dealings with the petitioner with immediate effect and the name of the petitioner was recommended to the State Government for such action. The petitioner on 05.07.2007 served a letter to the FCI in which it had mentioned that it would lift the BRL rice in question @ ₹1038.20 per quintal on actual weight basis. However, nothing was done by the petitioner in this regard. Since the petitioner did not abide by its own commitment, respondent-FCI took the decision on 10.10.2012 till the final decision on the matter is taken by the CBI Court. It is also submitted that the matter before the CBI Court is still pending. The employees, who have acted in connivance with the millers like the petitioner, have already been dealt with departmentally.

Be that as it may, learned counsel for the petitioner has raised only one argument that the petitioner cannot be blacklisted for an indefinite period. In support of his arguments, he has relied upon the order passed in LPA No.1310 of 2016 (O&M), titled as **Food Corporation of India and another Vs. M/s Sanman Rice Mills and others**, decided on 10.11.2016. It is also submitted that in another case bearing CWP No.5787 of 2008 (O&M) which was decided on 14.10.2015, this Court had observed that the FCI may pass an appropriate order in accordance with law but in case any adverse order is passed the petitioner would have the liberty to assail the same, in accordance with law, if so advised.

Learned counsel for the petitioner has prayed that the FCI may be directed to pass a similar order in terms of the order dated 14.10.2015 passed in CWP No.5787 of 2008 (O&M) so that the petitioner may challenge it accordingly with regard to blacklisting the petitioner for an indefinite period.

In this regard, learned counsel for the respondent-FCI has submitted that the petitioner cannot force the FCI to have the

business dealings with it. It is also submitted that in the other matters, the Court had found that the rice miller had paid the dues and supplies were restored but in this case, the petitioner though made a promise that it would lift the BRL rice @ ₹1038.20 per quintal but thereafter did not fulfill its commitment and is in arrears of more than ₹3,44,69,383/- besides the pendency of the case before the CBI.

After hearing learned counsel for the parties and taken into consideration all the facts and circumstances of the case, I am of the considered opinion that it is a case where the petitioner has not come to the Court with clean hands as it had not fulfill its own commitment of lifting the BRL rice in question. Therefore, the petitioner cannot seek a mandamus for the purpose of directing the FCI to have business dealings with it. Thus in my considered opinion, FCI has rightly blacklisted the petitioner keeping in view of its misconduct in the past.

Dismissed.

(RAKESH KUMAR JAIN)
JUDGE

July 09, 2018

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