

LPA No. 1164 of 2018 (O&M)

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

LPA No. 1164 of 2018 (O&M)

Date of decision: 1.8.2018

M/s Sherpur Rice Mills, Sherpur, District Sangrur ... Appellant

Versus

**Punjab State Grain Procurement Corporation Ltd. (PUNGRAIN) and
others**

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Gopal Singh Nahel, Advocate, for the appellant.

ARUN PALLI, J.

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 21.5.2018, rendered by the learned Single Judge, vide which the writ petition preferred by the petitioner-appellant, had since been dismissed.

The facts that are required to be noticed are limited.

The appellant, i.e. a partnership firm, leased out its premises to M/s Noor Agro Industries (respondent No.3), pursuant to a lease deed dated 19.10.2015, for the period starting from 1.9.2015 to 31.8.2016. For custom milling of paddy, for the crop year 2015-16, respondent No.3 was allotted to PUNGRAIN (respondent No.1). An agreement dated 23.10.2015 was entered into between respondent No.3 and PUNGRAIN, to which the appellant stood as guarantor and even furnished the surety bonds, indemnifying the agency (PUNGRAIN) as regards payment of rice, payable by respondent No.3 to the Government. Post milling, the rice weighing 19363.08 quintals was required to be delivered by respondent No.3 to the

LPA No. 1164 of 2018 (O&M)

Food Corporation of India (FCI) in the account of PUNGRAIN, but it actually delivered 17790.70 quintals of rice to the FCI. As a result, shortage/deficiency of 1572.38 quintals of rice was caused at the instance of respondent No.3. Resultantly, property of respondent No.3 was attached on 29.3.2016, and PUNGRAIN also filed an arbitration claim against the appellant for recovery of Rs.55,78,102/-. Further, in terms of clause 3 (xv) of the Custom Milling Policy 2017-18, the appellant was declared defaulter. And, clause 11H(d) of the said policy postulates that the rice miller(s), who stood as a guarantor(s) for any other miller against whom a court or a police case is registered or arbitration proceedings are initiated, owing to 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 along with penal interest. That being so, PUNGRAIN, vide order dated 29.12.2017, assailed in the writ petition, declared the appellant ineligible for allotment of paddy for milling for the crop year 2017-18. The said writ petition was dismissed, and thus this appeal.

We have heard learned counsel for the appellant and perused the records.

Before we proceed further, it would be apposite to refer to clause 11H(d) of the Custom Milling Policy, 2017-18, which reads thus:-

Clause 11H(d)

The rice miller(s) who stood 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

LPA No. 1164 of 2018 (O&M)

for whom guarantee was furnished, clears the default of the concerned agency along with penal interest at the rates for the relevant year(s) as decided by the Government from time to time.

Ex facie, the appellant furnished guarantee for respondent No.3 in relation to the agreement dated 23.10.2015. Owing to shortage/deficiency of 1572.38 quintals of rice, that was to be supplied by respondent No.3 to the FCI, not only an FIR was registered, but even an arbitration claim for a sum of Rs.55,78,102/- was also lodged against respondent No.3 by PUNGRAIN, which was still pending. Thus, in the given situation, the respondent authorities were well within their rights to invoke the provisions of clause 11H(d) of Custom Milling Policy 2017-18, and declare the appellant ineligible for allotment of paddy for milling for the crop year 2017-18. On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusion reached by the learned Single Judge was either contrary to the record or suffered from any material illegality.

That being so, the appeal being devoid of merit is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

August 1, 2018
AK Sharma

Whether speaking / reasoned:
Whether Reportable:

YES
NO