

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

Date of Decision : 10.9.2018

114 RSA-1250-2017 (O&M)

M/s Shri Nanak Rice Mills

....Appellant

vs.

**The State of Punjab through Secretary, Department of Food, Civil
Supplies and Consumer Affairs, Punjab and others**

....Respondents

114-A RSA-1583-2017 (O&M)

M/s Garg Rice Mills

....Appellant

vs.

**The State of Punjab through Secretary, Department of Food, Civil
Supplies and Consumer Affairs, Punjab and others**

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

**Present: Mr.B.S.Sidhu, Advocate
for the appellant.**

AJAY TEWARI, J. (Oral)

Since the issue involved is the same, both the appeals are
decided by the common order.

These two appeals have been filed against the judgment of the
Lower Appellate Court reversing that of the Trial Court and thereby
dismissing suits filed by the appellant(s).

The case of the appellant was that they were operating Rice shellers and as per the policy, at least one of the different procurement agency had to be allotted to them but merely for political reason no agency was allotted to them in the procurement years 2006-2007 and 2007-2008 which resulted in huge losses to them and that is why, they filed the instant suit for damages.

It may be also mentioned here that in the year 2007 the appellants had filed ***Civil writ petition No. 15366 of 2007*** titled as “***Maa Durga Rice Mills and others vs. State of Punjab and others***” decided on 4.7.2008 by a Division Bench of this Court and the following order was passed :-

“The petitioners have approached this Court by filing the instant petition for issuance of a direction to the respondents to allocate them a State procuring agency so that they can get the Paddy for custom milling, in proportion to the Paddy allocated to other similarly situated Rice Mills.

2. *The petitioner was initially given Food Corporation of India as a procuring agency for allotment of custom milling paddy. During the pendency of this petition, an affidavit has been filed by Sh. H.S.Grewal, Joint Director (Rice), Food and Supplies Department, Punjab, Chandigarh stating that the Food Corporation of India has not been making purchase of the paddy in the local area of operation of the petitioner i.e. Gidderbaha. On realization of the aforementioned facts, an offer was made to the petitioners that PUNGRAIN could be allotted to them as procuring agency.*

3. *Mr.Bali, learned counsel for the petitioner states that as the milling of paddy is already over, no useful purpose would be served by allotment of the Paddy through the agency of PUNGRAIN. However, he has made a limited prayer that in the Paddy Season*

2008 commencing from September, the petitioners may be allotted agency which may offer Paddy to the petitioners for custom milling.

Keeping in view the aforementioned prayer of the petitioners, we are of the view that the main prayer made by the petitioners has been rendered infructuous. However, in future, respondent Nos. 1 and 2 shall ensure that a proper procuring agency is allotted to the petitioner which may preferably be PUNSUP or PUNGRAIN or any other State procuring agency

Writ petition stands disposed of.”

At that time also the claim of the appellants was on the basis of the same instructions/policy. There was no bar for them to have sought damages or whatever relief was legally available for them but they omitted to do so. They did not seek/obtain any permission from this Court to institute separate suits as well. In the circumstances, the relief being sought in the present suits would be barred under Order 2 Rule 2 CPC.

Both the appeals stand dismissed.

Since the main cases have been decided, the pending civil miscellaneous application, if any, also stands disposed of.

**10.9.2018
anuradha**

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No