IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CWP No.31391 of 2018 (O&M)
Date of decision: December 20, 2018

M/s Guru Nanak Rice & Agro Product ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: **HON'BLE MR. JUSTICE RAJAN GUPTA**

Present: Mr. Arihant Jain, Advocate for the petitioner.
Mr. Sahil Sharma, DAG, Punjab.
Mr. B.R. Bansal, Advocate for respondent No.5.

Rajan Gupta, J.(oral)

Petitioner has impugned the order dated 06.12.2018, passed by Director, Department of Food, Civil Supplies and Consumer Affairs, Punjab. Operative part thereof reads as under:-

> "After hearing the facts/submissions made by both the parties and considering all the documents available on record, it was found that the provisions of Clause 7-c, 7-d and 7-j of the Custom Milling Policy 2018-19 are attracted in the present case due to existence of father-son relationship between Sh. Gurdial Singh and Sh. Bhagwan Singh. Moreover, the contention of Sh. Gurdial Singh that he has no financial relationship with Sh. Bhagwan Singh is totally false and baseless as on 17.10.2018. Sh. Bhagwan Singh had transferred land to Sh. Girdial Singh. The millers have deliberately concealed this fact from the Department. It clearly establishes a sham transaction between the said father and son. Therefore, I Anindita Mitra, IAS, Director, Food, Civil Supplies & Consumer Affairs, Punjab, agrees with the contentions raised by the District Allotment Committee, Sangrur, regarding cancellation of the Rice Mill in question as all the aforementioned clauses are attracted in this case and exercising the powers conferred upon me by the Custom Milling Policy 2018-19, declare Guru Nanak Rice and Agro Products, Malerkotla, defaulter. Therefore, the allotment of the said Mill is cancelled with immediate effect."

It has been urged before the court that petitioner is covered under the proviso to clause 2 (k) of the policy. According to him, petitioner has a separate residence and is economically independent, Besides Clause 7 (c), (d) and (j) mentioned in the order dated 06.12.2018 are also not attracted, as petitioner has never been guarantor, lessor, partner or owner of Guru Nanak Rice Mill owned by his son. According to him, petitioner cannot be penalized only due to father and son relationship. A perusal of the order shows that it contains no factual discussion on the issue as to how petitioner can be considered to be a family within the meaning of clause 2 (k) and not proviso thereto; or the grounds on which clauses 7 (c), (d) and (j) would apply. To this extent, the order is non-speaking and cryptic. Same is hereby set-aside. Matter is remitted to the authority for decision afresh within one week. Till then petitioner shall be at liberty to continue milling the paddy already supplied to them.

Petition is allowed in these terms.

(RAJAN GUPTA)
JUDGE

December 20, 2018
'Rajpal'

Whether speaking / reasoned Yes / No

Whether Reportable: Yes / No