

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

CWP No. 2419-2019

Date of decision : 25.02.2019

M/s Silver Grains Private Limited and others Petitioners

versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Suvir Sehgal, Advocate with
Ms.Raman Dhir, Advocate and
Mr.Daman Dhir, Advocate
for the petitioners.

Mr.Sahil Sharma, DAG, Punjab.

Ms.Deepali Puri, Advocate.

Mr.A.D.S. Jattana, Advocate
for respondent No.6.

TEJINDER SINGH DHINDSA, J. (ORAL)

Ms.Anandita Mitra, IAS, Director, Food, Civil Supplies and
Consumer Affairs, State of Punjab is present in Court.

Counsel for the parties have been heard.

Challenge in the instant writ petition is to the order dated
19.12.2018(Annexure P-3) and whereby claim of the petitioner-Rice Mills
for purpose of allocation/storage of paddy in ratio and proportion in their
mill premises has been declined. The precise case projected on behalf of the
petitioner-Rice Mills is that the impugned decision dated 19.12.2018
(Annexure P-3) is in violation of the provisions contained in the Punjab
Custom Milling of Paddy Policy(Kharif 2018-19).

It would be apposite to take note that CWP No. 28180 of 2018 titled as M/s Shiv Shankar Rice Mills, Moonak and others vs. State of Punjab and others was filed prior in point of time and on 01.11.2018 a Co-ordinate bench of this Court had called upon the State counsel to seek instructions from the Principal Secretary-cum-Financial Commissioner, Department of Food, Civil Supplies and Consumer Affairs as to whether a Committee of senior officers can be formed to oversee the entire issue relating to the allocation of paddy for the season 2018-19 and to avoid any arbitrariness in allotment thereof. On a subsequent date of hearing in CWP No. 28180 of 2018 i.e. on 21.11.2018 the Court had been informed that a Committee of the senior officers had been constituted to look into the matter. Petitioners in CWP No.28180 of 2018 were accordingly relegated to appear before the Committee.

In the instant case the impugned order dated 09.12.2018 at Annexure P-3 has been passed by the same very committee comprising of the Additional Director-cum-Controller, Legal Metrology, Government of Punjab, Additional Director (Finance) and the Deputy Director(Rice).

During the course of hearing today learned State Counsel has made available for perusal of this Court a copy of the communication dated 09.11.2018 from respondent No.1 and which was addressed to Mr.P.S.Bajwa, Additional Advocate General, Punjab and which was on the subject of constitution of the Committee. The same very Committee/constitution thereof had been approved by the Co-ordinate bench while disposing of CWP No.28180 of 2018.

A subsequent development has taken place and which would have a bearing on the present writ petition as well.

Counsel for the parties are *ad idem* that in the case of M/s Hari Om Rice Mills and another v. State of Punjab and others and in which also a controversy had been raised with regard to short allocation, CWP No. 31134 of 2018 came to be filed by the Rice Mill in question along with another. In said writ petition the rice millers in question had been directed to appear before the Committee in question. Apparently after affording an opportunity of hearing to the rice millers i.e. M/s Hari Om Rice Mill and M/s Sandhu Rice Mill, Khanna, the following decision has been taken by the Committee on 21.02.2019:-

“In CWP 31134 of 2018 titled M/s Hari Om Rice Mill and another vs. State of Punjab and others, the Hon'ble court of Mr. Justice Rajan Gupta on 07.12., 2018 ordered as under:-

'On request, adjourned to 13.12.2018. Meanwhile petitioners shall be at liberty to appear before the Committee stated to have been constituted for considering the issues involved.'

To comply with the orders of Hon'ble High court, notices have been issued to petitioners & respondents i.e. District Food & Supplies Controller, DM PSWC District Ludhiana and Deputy Director-cum-Chairperson, District Allotment Committee, Ludhiana for affording a personal hearing in the matter. After hearing petitioners & respondents and examining all the records relating to entitlement, allocable paddy and actual storage of paddy in the mills of Khanna milling centre, the committee found irregularities in the storage of paddy in the petitioners' mills & accordingly ordered shifting of paddy from the rice mills where excess paddy has been stored on pro rata basis in the mill of petitioner at S.No.1 & 2

(M/s Hari Om Rice & General Mills, Khanna and M/s Sandhu Rice Mill, Khanna, District Ludhiana) allotted to PSWC vide letter No. RP-2-2018/26, dated 24.12.2018 & the petition was disposed of accordingly.

It is pertinent to mention here that in a separate CWP No. 1539 of 2019 titled as M/s Ganpati Rice Mills & others vs. State of Punjab & others, some millers of Lehragaga milling centre, Sangrur filed a writ petition in Punjab & Haryana High Court against the orders of committee for shifting of paddy and the Hon'ble court on 21.01.2019 ordered as under;-

“..... In view of the above and without even examining the validity of the impugned order dated 24.12.2018 (Annexure P-3), the instant writ petition is disposed of with a direction for the Committee to afford to the petitioners as also all other stake holders/rice millers pertaining to the same milling centre an opportunity of hearing. Same course of action be also adopted for other milling centres as well.

Final orders in pursuance to such fresh consideration and after affording an opportunity of hearing be passed within a period of three weeks from the date of passing of this order. Till then the impugned order dated 24.12.2018 (Annexure P-3) shall not be given effect to and the same would be subject to the outcome of the fresh reconsideration that has been so directed. Disposed of.'

As the Hon'ble High Court has ordered to implement the decision given in CWP 1539 of 2019 for all milling centers where paddy shifting has been ordered by Committee constituted for equitable distribution of paddy, to comply with the order of Hon'ble High Court, notices have been issued to the millers of Khanna milling centre from whose mills paddy

had to be shifted and the respondents i.e. District Food & Supplies Controller, DM PSWC district Ludhiana and Chairman-cum-Deputy Director, District Allotment Committee, Ludhiana for affording a personal hearing in the matter on 06.02.2019.

The concerned millers appeared before the committee on 06.02.2019 and the respondents also appeared before the committee on the same day to put forth their version on the grievances raised by the petitioners.

On the date of hearing, the millers informed the committee that they had also filed a CWP No. 2419 of 2019 titled as M/s Aggarwal Agro Industries & others vs. State of Punjab and others and it's first date of hearing is on 07.02.2019. The millers informed the Committee that maximum shellers have completed more than 70% of milling of paddy and they need some time to file their reply and that hearing should be postponed to 11.02.2019. On 11.02.2019, the millers further requested to adjourn till 14.02.2019 but did not submit anything thereafter.

Respondent/DM PSWC who was also present during the hearing informed the Committee that in compliance of the orders of Committee in CWP 31134 of 2018, paddy shifting orders were issued vide letter dated 29.01.2019 but could not be implemented in light of orders issued in CWP 1539 of 2019 stated above. He further informed that millers from whose paddy is to be shifted are ready to shift paddy but at book value only whereas petitioner miller of CWP 31134 of 2018 M/s Hari Om Rice & General Mill insist on for lifting of paddy at actual weight basis only. He further added that with the passage of time paddy stock has dried up and shifting of paddy on book value would cause a major loss which is not in the interest of state exchequer.

DM PSWC pleaded that custom milling is at full swing & impressed that if orders of shifting of paddy are kept intact by

Committee then it will hamper the milling schedule and will cause big financial loss to State exchequer. So, he further stated that orders of shifting of paddy issued vide letter no. RP-2-2018/26, dated 24.12.2018 maybe re-considered & affirmed that PSWC is ready to compensate petitioner millers of CWP 31134 of 2018 during the KMS 2019-20 upto the quantity of paddy short supplied during KMS 2018-19 provided the said millers are found eligible for allotment as per the provisions of Custom Milling Policy 2019-20.

The Committee after a thorough reconsideration of its earlier order, rescinds its previous order issued vide letter no. RP-2-2018/26, dated 24.12.2018 in the financial interest of State exchequer. Also the Committee recommends DM PSWC to compensate the petitioner millers of CWP 31134 of 2018 during KMS 2019-20 provided said millers are found eligible for allotment as per the provisions of Custom Milling Policy 2019-20. The case is thus disposed of accordingly.

With the passage of this order the directions issued by Hon'ble Punjab and Haryana High Court to the committee to decide the writ petition also stand complied with.

A copy of this order be forwarded to all the stakeholders and case file be consigned to records.

Sd/-

Additional Director-Cum-Controller
Legal Metrology,
Govt. of Punjab

Sd/-

Additional
Director
(Finance)

Sd/-

Deputy
Director
(Rice)

Endst No. RP-5()-2019/405

Dated : 21.02.2019"

Counsel for the petitioners would impress upon this Court that a similar course of action can be adopted by the Committee in the case of the petitioners herein as well.

Learned State counsel does not oppose such submission. Rather

a suggestion has come-forth from the learned Director who is present in Court that at the stage of constitution of the Committee at the hands of the Principal secretary-cum-Financial Commissioner, Government of Punjab and which is reflected in the communication dated 09.11.2018 and addressed to the State counsel, it had been observed that the Committee would furnish periodical reports to the Director and who would take necessary corrective action to ensure equitable distribution and by adhering to the policy guidelines as indicated in the Custom Milling Policy of 2018-19. Learned State counsel would urge that the matter may now be taken up by the Committee and which in turn would make its recommendations to the Director to take a final decision.

Counsel for the petitioners is agreeable to such procedure being adopted.

In view of such consensus having been aggrieved at, the writ petition is disposed of with a direction to the petitioners to appear before the Committee on 07.03.2019 with regard to their grievance of short fall of storage of raw paddy stock in their premises. The Committee would be obligated to afford an opportunity of hearing to the petitioners i.e. the millers as also to examine any document that the rice mills may produce in support of their claim. Needless to mention that the Committee while looking at the matter afresh and making a recommendation to the Director would not be influenced by the impugned order dated 19.12.2018(Annexure P-3) which has already been passed. The Director thereafter would take a final view on the matter and pass a reasoned/speaking order within a period of four weeks from the receipt of recommendations of the Committee and the same would be conveyed to the petitioners.

It is clarified that the decision taken by the Committee vide order dated 21.02.2019 in the case of M/s Hari Om Rice Mills and another vs. State of Punjab and others as reproduced herein above concerned a particular procurement agency i.e. PSWC and to whom certain recommendations have been made. In the present matter the final decision, if any, would apply to the procurement agency to which the rice mills in question are attached.

The writ petition is accordingly disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

25.02.2019
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No