

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

207-17 cases

1.

CWP No.23099 of 2016

Date of decision:- 03.05.2019

Satnam Agro Industries

.....Petitioner

Versus

Union of India and others

....Respondents

2.

CWP No.23256 of 2016

M/s Goyal Rice and General Mills

.....Petitioner

Versus

Union of India and others

....Respondents

3.

CWP No.23263 of 2016

M/s Manav Rice Mills

.....Petitioner

Versus

Union of India and others

....Respondents

4.

CWP No.23264 of 2016

M/s J.K. Enterprises and another

.....Petitioners

Versus

Union of India and others

....Respondents

5.

CWP No.26370 of 2016

M/s Dashmesh Rice Mills

.....Petitioner

Versus

Union of India and othersRespondents

6. CWP No.26379 of 2016

M/s Ganpati Rice MillsPetitioner

Versus

Union of India and othersRespondents

7. CWP No.27178 of 2016

M/s Shiva TradersPetitioner

Versus

Union of India and othersRespondents

8. CWP No.11561 of 2017

M/s Shiv Shankar Rice MillsPetitioner

Versus

Union of India and othersRespondents

9. CWP No.11217 of 2017

M/s Moti Rice MillsPetitioner

Versus

Union of India and othersRespondents

10. CWP No.11245 of 2017

M/s Rama Krishna Cotton FactoryPetitioner

Versus

Union of India and othersRespondents

11.	CWP No.11621 of 2017
M/s Fateh Rice Mills	Petitioner
Versus	
Union of India and others	Respondents
12.	CWP No.11643 of 2017
M/s Lukshmi Cotton Factory	Petitioner
Versus	
Union of India and others	Respondents
13.	CWP No.4060 of 2017
M/s J.R. Rice & General Mills	Petitioner
Versus	
Union of India and others	Respondents
14.	CWP No.4989 of 2017
M/s Gangotri Rice & General Mills	Petitioner
Versus	
Union of India and others	Respondents
15.	CWP No.11215 of 2017
M/s Durga Rice Mills	Petitioner
Versus	
Union of India and others	Respondents

16.

CWP No.19507 of 2018

M/s Panjdhera Rice Mills

.....Petitioner

Versus

Union of India and others

....Respondents

17.

CWP No.19540 of 2018

M/s Ram Lal Vijay Kumar and Sons Rice Mills

.....Petitioner

Versus

Union of India and others

....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Daman Dhir, Advocate
for the petitioner(s) in CWP Nos.23099, 23256, 23263,
23264, 26370, 26379, 27178-2016 and CWP Nos.11217,
11245, 11621, 11643, 4060, 4989, 11215-2017 and CWP
Nos.19507, 19540 of 2018
and for Mr. Jeevan Gautam, Advocate
for the petitioner(s) in CWP No.11561-2017

Ms. Maloo Chahal, DAG, Punjab.

Mr. Rajesh Garg, Sr. Advocate with
Ms. Nimrata Shergill, Advocate
for respondent-FCI.

Mr. A.P.S. Mann, Advocate
for respondent No.5 & 6 in
CWP-11217, 11643 and 11215 of 2017)

Ms. Deepali Puri, Advocate for
respondent No.6 & 7 (PUNSUP) in CWP-23099-2016
respondent No.5 & 6 (PUNSUP) in CWP-11245-2017

Mr. Ashok Jindal, Advocate
for respondent No.5 in CWP-19540, 19507 of 2018.

Mr. Harinder Deep Singh Bains, Advocate
for respondent Nos,5 & 6 in CWP-26379-2016

Mr. Himmat Singh Deol, Advocate
for respondent No.5 & 6 in CWP-27178, 23256, 26370 of
2016 and
for respondent Nos. 5 to 7 in CWP-23264-2016.

JITENDRA CHAUHAN , J. (Oral)

The aforementioned batch of seventeen petitions are being decided by way of common judgment as these involve common questions of law and facts in the matter.

The leading case in this batch of writ petitions is **CWP No.23099 of 2019**. The petitioner(s) in this case claims that respondent No.7 (the State agency) is raising demand of interest from the petitioner for delayed delivery of custom milled rice for kharif marketing season 2013-14. The petitioner has pleaded in Paragraphs 13 and 14 of the writ petition, that there was paucity of space with the Food Corporation of India in its storage godowns and therefore a situation had arrived over which the petitioner had no control relating to such delayed delivery.

The Food Corporation of India, in its written statement has categorically pleaded that the creation of space during receipt operation is a continual process. When storage space at a particular date/period gets filled up, the same is liquidated through loading of foodgrain under various welfare schemes in order to create space. It has further been pleaded that extension upto 30th September, 2014 was still granted to millers like the petitioners, on the asking of the State Government, for

delivery of custom milled rice for kharif season 2013-14.

In various writ petitions filed before this Court, the petitioner(s) have raised disputed questions of fact, which are peculiar to each petition, to the effect as to what was the date on which each and every Miller delivered the custom milled rice and what were the storage positions of the godowns of the Food Corporation of India on such dates.

Clause 19 of the ***Custom Milling Policy 2013-14*** reads as under:

“ all disputes and differences arising out of or in any manner touching or concerning the agreement whatsoever shall be referred to the sole arbitration of the concerned Managing Director or any person appointed by him in this behalf”

During the course of arguments of the case, the petitioner(s) also raised an argument to the effect that in some cases the arbitrator has already adjudicated in favour of the Millers and therefore, the State Agencies are not justified in raising demand of interest for delayed delivery of rice. The Court feels that this argument is not tenable, for the precise reason that awards of arbitrators are executable as decrees of civil Court and thus, the remedy lies under the Arbitration and Conciliation Act, 1996. It is nowhere on record that the petitioner(s) have availed of this alternative and efficacious remedy.

There are disputed questions of fact, which this Courts feels, can be gone into by the Arbitrator, therefore, the petitioner(s) are relegated to appear before the Arbitrator on 02.07.2019 in terms of the

view taken by the Court in *CWP-20885-2016*, decided on 04.10.2016 and *CWP-19723-2017* decided on 06.08.2018.

May 03, 2019
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[JITENDRA CHAUHAN]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No