

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

**CWP-27896-2018(O&M)
Date of decision-21.01.2019**

M/s Guru Rice Mills

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Parvez Chugh, Advocate,
 for the petitioner.

Mr. Vikas Mohan Gupta, Addl. AG Punjab.

JITENDRA CHAUHAN, J.

CM-16868-2018

Application is allowed as prayed for subject to all just exceptions.

CWP-27896-2018

This writ petition under Articles 226/227 of the Constitution of India has been filed for the issuance of a writ, in the nature of Mandamus directing the respondents to pay investment incentive claim/capital subsidy as sanctioned vide letter dated 12.01.2001 by respondent No.4 (Annexure P-1) to the petitioner firm along with interest @ 12% per annum, till the realization of the amount and further quashing of order dated 02.03.2018 (Annexure P-8) passed by respondent No.3 vide which the claim of the petitioner was rejected.

Learned counsel for the petitioner submits that as per Punjab Industrial Incentive Code under the Industrial Policy 1996 a subsidy of 30% to 50% was to be granted by the State Government, if it complies with the terms and conditions of the Policy. He further states that the petitioner-firm established a rice mill in the border area in the year 1996. An application was submitted for grant of subsidy which was in fact sanctioned on 12.01.2001, according to which, an amount of Rs.27,05,500/- was sanctioned to be released as subsidy to the petitioner. Since the sanctioned had not been released till February, 2016, a public notice was issued by the respondents inviting all the rice millers, to whom the subsidy has not been released, to furnish documents in the shape of the balance sheets, bill of lading, H-forms, bank account details etc. In view thereof, the petitioner submitted the requisite documents to the General Manager, District Industries Centre, Ferozepur. Even despite that, subsidy was not released till December, 2016 and therefore, CWP No.564 of 2017 was filed which was disposed of vide order dated 16.02.2017 (Annexure P-5) with a direction to the respondents to decide the representation of the petitioner within a period of three months. Pursuant to such directions, the respondents, vide a speaking order dated 02.03.2018 (Annexure P-8), rejected the claim of the petitioner on the ground that petitioner does not fulfill the conditions of Rule 2.22 of Industrial Policy 1996.

Rule 2.22 of Industrial Policy, 1996 reads as follows:-

“2.22 Export Oriented Unit' means an industrial unit exporting atleast 25% of its products in markets outside India with minimum value addition of 33% against direct receipt of foreign exchange or through merchant

exporters including Punjab Small Industries and export Corporation of any other trading house and registered as such with the Department of Industries, Punjab.”

On the other hand, learned counsel for the State submits that the learned counsel for the petitioner failed to show as to how the petitioner fulfills the conditions of Rule 2.22 of Industrial Policy which is the basis of declining the claim of the petitioner.

Heard.

The claim of the petitioner rests upon sanction letter dated 12.01.2001 (Annexure P-1). However, from the year 2001 till the year 2016, no action was initiated by the petitioner to claim the subsidy amount nor there is an explanation for the same. Therefore, there is an unexplained delay on the part of the petitioner in approaching the Court for relief and as the instant writ petition is hit by delay and laches, therefore, the same warrants dismissal.

Learned counsel for the petitioner has tried to explain that as it was only after the direction issued by this Court on 16.02.2017 to pass a speaking order that the impugned order dated 02.03.2018 (Annexure P-8) has been passed vide which the claim of the petitioner was rejected and apart from it, in another batch of petitions bearing CWP No.19007 of 2002, which was allowed by this Court on 20.05.2011 (Annexure P-2) and affirmed by Hon'ble the apex Court vide order dated 05.09.2014 (Annexure P-4), which reads as under:-

“Delay condoned.

*We find no merit in these petitions. The Special Leave
Petitions are dismissed.”*

Therefore, the petitioner has lodged a claim for subsidy which is a fresh cause of action. However, the Court feels that the petitioner has assigned no plausible or convincing reason for filing the petition after inordinate delay of as many as 15 years. The directions issued by this Court in CWP No.564 of 2017 on 16.02.2017 to consider the representation of the petitioner cannot be made the basis to condone the delay on the part of the petitioner. On account of the long unexplained delay and laches, the present writ petition has to fail.

Ordered accordingly.

21.01.2019

ps-I

(JITENDRA CHAUHAN)
JUDGE

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