

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

CWP No. 31837 of 2019 (O&M)

Date of decision:-05.11.2019

M/s B.P. Rice Mill, Mudki, District Ferozepur and another

.....Petitioners

versus

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Daman Dhir, Advocate for the petitioners.

Ms. Deepali Puri, Additional A.G., Punjab alongwith
Mr. Abhay Pal Singh Gill, AAG, Punjab.

TEJINDER SINGH DHINDSA, J.(ORAL)

The instant petition is at the hands of the Rice Mills situated at Village Mudki, District Ferozepur.

A writ of mandamus has been sought to direct the official respondents to link Mandi Malha Kalan, District Moga with Talwandi Bhai Milling Centre, District Ferozepur.

It is the contention of counsel that the prayer made in the instant petition is on the strength of the terms and conditions contained in the Punjab Custom Milling Policy for Paddy (Kharif 2019-2020).

Having heard counsel for the petitioners at length and having perused the pleadings on record, this Court is of the considered view that the prayer in the instant petition would not call for consideration and adjudication of this court at this stage.

Such view is being taken as the Custom Milling Policy in

question itself contains an alternate dispute redressal mechanism. In such regard Clause 11 and 24 of the policy would be relevant and read as follows:-

“11. LINKING OF MANDI(S) AND RICE MILLS

a. Linking should be got done by the agencies at the time of allocation of rice mills.

b. The DAC shall make all efforts while linking rice mills and mandis in such a way so as reduce the expenditure on transportation of paddy to a bare minimum. Centers/mandis shall be linked with the nearest milling center/storage center keeping in view the availability of milling capacity at the milling/storage center(s) at which paddy is proposed to be stored/milled.

c. Mandis should preferably be linked with the rice mills situated within the same milling center.

Provided that, where a rice mill is situated in any adjoining milling center (either in the same district or in any other district) and the distance of mandi and such mill is considerably lesser than the distance between mandi and the mill within the same milling center, such a mill shall be linked with nearest mandi unless the miller(s) at the same center are ready to pay (by way of an undertaking in this regard) the extra cost of transportation. DDF concerned shall prepare a list of such Mandis and mills mentioning therein distances from all such mandis.

Provided further that while linking of mandis and

millers in such cases, equitable distribution of paddy to the mills in respective milling centres shall be the guiding principle and in no case the storage of paddy in such mills shall exceed the maximum free allocable paddy after proportionate cut of the respective milling centre. Provided that if a dispute arises between millers and the agencies regarding equitable distribution of paddy or otherwise, it shall be decided by the DDF-cum-Chairman DAC. Further an appeal against such decision by the DDF-cum-Chairman DAC shall lie with the DFS and subsequently with PSFS.

d. DAC should allot mandis in such a manner so as to ensure that paddy is shifted directly from the purchase centre/mandi to the storage points/mill premises and no criss-cross movement of paddy stocks takes place. If any crisscross movement is detected at a later stage DAC shall collectively be held responsible and liable for disciplinary action, in addition to recovery of extra expenditure incurred in such crisscross movement, from the responsible member(s) of DAC.

e. After linking all the mandis and mills, information in proforma (Annexure XXI) shall be submitted by every DFSC to the office of Director. A soft copy of final linking of all the mandi and mills shall also be sent to the office of Director by an e-mail at adfsriceho90@gmail.com and directorfoodsupplies@gmail.com.”

**24. ORDERS PASSED UNDER THIS POLICY AND
ALTERNATIVE DISPUTE RESOLUTION MECHANISM**

a. All orders passed under any of the provisions of this Policy shall be passed after the Miller has been given a written notice of the proposed action and an opportunity of personal hearing before proceeding against him. Given the short time lines of the crop season, a notice of 2 days shall be issued to the Miller and a maximum of one adjournment for personal hearing.

b. A first appeal from orders passed by the DAC related to any clause of this policy shall lie with the DFS and a second appeal therefrom with the PSFS. The Decision of PSFS in such appeals shall be final and binding.

c. All the disputes and differences arising out of or in any manner touching or concerning the agreement whatsoever shall be referred to the sole arbitration of an Arbitrator to be appointed by the SPA. The award of the Arbitrator shall be final and binding on the parties to the contract.

d. Provided that any demand for arbitration in respect of any claim(s)/dispute between both the parties, under the contract shall be in writing and shall be made within one year of the date of completion or expiry of the period of contract. If the demand is not made within the period, the claim (s) of the Miller shall be deemed to have been waived off and the agency shall be released of all liabilities under the contract in respect of these claims. The cost for and in connection with arbitration shall be the discretion of the Arbitrator who may make suitable orders in his award.

e. The award of such arbitrator shall be final and binding on all the parties to the contract. In the event of death of an Arbitrator or his being transferred or vacating his office or being unable to act for any reason, the Managing Director concerned at the time of such transfer, vacation of office, death or inability, shall appoint another person to act as Arbitrator or himself/herself act as Arbitrator. Such a person shall be entitled to proceed with reference from the stage where it was left his predecessor.

f. Subject as aforesaid, the Arbitration and Conciliation Act 1996, the Arbitration and Conciliation (Amendment) Act 2015 or any statutory re-enactment or modifications thereof shall apply to the arbitration provided under this clause. However, the cases of fraud, theft, misappropriation etc. on the part of the miller are not covered under this clause and in such cases legal proceedings as deemed fit shall be initiated by the agency against the miller as well as against the sureties.

g. In cases where where documents of agreements are lost during arbitration/civil proceedings and the miller has delivered delivered even a single consignment of custom-milled rice to FCI it shall be presumed that the Agreement containing the Arbitration Clause did actually exist but has been deliberately lost by some vested interests. This Clause shall be acceptable to all the stakeholders.

In view of the above, the instant writ petition is disposed of in

terms of granting liberty to the petitioner to avail of the alternate dispute redressal mechanism provided under the policy itself.

In the eventuality of any such claim/representation being preferred, the appropriate/competent authority under the Department of Food, Civil Supplies and Consumer Affairs, State of Punjab, would be obligated to consider the same and to take a final decision thereupon expeditiously and in any case within a period of 10 days from the submission of the same and after affording to the petitioners an opportunity of personal hearing.

Writ petition is disposed of.

It is however made clear that this Court has not examined the grievance of the petitioner-rice mill on merits.

(TEJINDER SINGH DHINDSA)
JUDGE

05.11.2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No