

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.10877 of 2020

Date of decision: 14.09.2020

M/s. Ashirwad Industries

.....Petitioner

V/s.

State of Punjab and others

.....Respondents

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Daman Dhir, Advocate, for the petitioner.

Ms. Lavanya Paul, Assistant Advocate General, Punjab.

Mr. Somesh Gupta, Advocate, for respondent Nos. 6 & 7.

Sanjay Kumar, J.

The petitioner-firm seeks a direction to the Punjab Agro Foodgrains Corporation, respondent Nos. 6 and 7 herein, to issue a 'No Objection Certificate' in its favour to enable it to seek registration so as to undertake milling of paddy.

The petitioner-firm purchased a rice mill at Village Bhai Rupa, which was hitherto owned and managed by M/s. Jai Maa Kali Rice Mill, in the Court-held auction in the course of execution proceedings against M/s. Jai Maa Kali Rice Mill and others. Sale Certificate dated 03.05.2019 was issued to the petitioner-firm in this regard. However, the request of the petitioner-firm for registration under the Punjab Custom Milling Policy for Paddy (Kharif 2019-2020) was rejected by the Director, Food, Civil Supplies and Consumer Affairs, Punjab, *vide* order dated 15.11.2019. The appeal filed by the petitioner-firm against this order is stated to have been disposed of on

03.09.2020, taking note of the passage of time and leaving it open to the petitioner-firm to seek registration afresh under the Milling Policy for the year 2020-2021.

It may be noted that when the case of the petitioner-firm for registration under the Milling Policy of 2019-2020 was under consideration, Memo No. A-15-2019/8644 dated 20.09.2019 was addressed by the District Controller, Food, Civil Supplies and Consumer Affairs, Bathinda, to the Food Corporation of India, Markfed, PUNSUP, Punjab Agro Foodgrains Corporation and Punjab State Warehousing Corporation calling upon them to submit their no objection/no dues certificates with regard to registration of the petitioner-firm. The Food Corporation of India responded, *vide* letter dated 20.09.2019, stating that nothing was pending against the predecessor-in-interest of the petitioner-firm. Similar was the response of the Markfed at Bathinda *vide* its letter dated 02.10.2019. The District Manager, PUNSUP, also addressed letter dated 23.09.2019 stating to the same effect. The Punjab State Warehousing Corporation echoed the same sentiment, under its letter dated 20.09.2019.

In effect, the rejection of the petitioner firm's request for registration under Kharif 2019-2020 was based only upon the communication dated 29.10.2019 submitted by the District Manager of the Punjab Agro Foodgrains Corporation, Bathinda. Therein, the District Manager stated that there was no relationship between the partners of the petitioner-firm and the owners of the erstwhile M/s. Jai Maa Kali Rice Mill at Village Bhai Rupa and that nothing was payable to the Corporation by the owners/partners of the petitioner-firm. However, Clause 7 (i) of the Custom Milling Policy (Kharif

2019-2020) was construed by the authorities to mean that only a sale under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, would enure to the benefit of the purchaser of a rice-mill-in-default and that the petitioner-firm was not entitled to registration.

As the petitioner-firm was given liberty by the appellate authority to apply afresh under the Custom Milling Policy (Kharif 2020-2021) and the very same issue would arise once again, Mr. Somesh Gupta, learned counsel appearing for the Punjab Agro Foodgrains Corporation, was asked to ascertain his client's stand.

Today, Mr. Somesh Gupta, learned counsel, produced Annexure R-6/1 dated 26.09.2019 and Annexure R-6/2 dated 29.10.2019. By Annexure R-6/1, the Senior District Manager of the Punjab Agro Foodgrains Corporation informed the District Food and Civil Supplies Controller, Bathinda, that M/s. Jai Maa Kali Rice Mill, Bhai Rupa, had embezzled 84477 bags of paddy, in relation to which the Corporation initiated arbitration proceedings culminating in Arbitration Award dated 17.11.2014, whereby a sum of ₹ 6,44,39,245/- was awarded to the Corporation. On the strength of this Award, the Corporation was stated to have initiated execution proceedings before the Civil Court, Bathinda, resulting in the open auction of the rice mill and the purchase thereof by the petitioner-firm for ₹ 94,38,000/-. This amount was stated to have been deposited by the petitioner-firm and appropriated by the Corporation.

It is in the light of these circumstances that the Senior District Manager requested the authorities to consider the case.

Annexure R-6/2 also stated to the same effect. Further the Senior District Manager of the Corporation stated therein that the partners of the petitioner-firm had no concern with M/s. Jai Maa Kali Rice Mill and that there were no pending dues against them.

Mr. Somesh Gupta, learned counsel, would also assert before this Court that it is not the stand of the Corporation that the petitioner-firm owes any dues to it.

In the light of this clear stand of the Corporation and as the petitioner-firm admittedly purchased the rice mill in an open Court auction held in the course of execution proceedings at the Corporation's behest, there is no possibility of imputing any sham or clandestine transaction to it.

Making this position clear, the writ petition is disposed of permitting the petitioner-firm to submit its application for registration under the Custom Milling Policy (Kharif 2020-2021) in terms of the appellate authority's order dated 03.09.2020. If such an application is submitted, the Director, Food, Civil Supplies and Consumer Affairs, Government of Punjab, shall consider the same on its own merits, duly keeping in mind the observations made hereinbefore, and take appropriate action thereon. This exercise shall be completed expeditiously and, in any event, not later than three weeks from the date of receipt of the petitioner-firm's application.

No order as to costs.

(SANJAY KUMAR)
JUDGE

14.09.2020

rakesh

whether speaking/non speaking : Yes/no

whether reportable/non reportable : Yes/no