

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

CWP No. 19631 of 2020
Date of decision: 04.12.2020

203

M/s. Satkartar Enterprises

....Petitioner (s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Rajbir Singh, Advocate,
for the petitioner.

Ms. Monika Chhibbar Sharma, Sr. DAG, Punjab.

(Proceedings are conducted through video
conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks quashing of order dated 06.11.2020 (Annexure P-13) whereby, the petitioner-Mill, having a common partner of M/s. Dharni Foods and being a defaulter of PUNSUP respondents no. 2 and 5 has not been granted the registration of the mill in view of Clause 7(d) of The Punjab Custom Milling Policy for Kharif 2020-21 (Annexure P-11).

Counsel for the petitioner has vehemently submitted that PUNSUP had granted no objection certificate regarding the petitioner-mill for the crop year 2015-16 and they had settled its case under the 'One Time Settlement' under no balance for the year 2015-16.

Clause 7(d) reads thus:-

“7(d) If a mill owned, leased or operated by a previously declared defaulter miller is transferred either through sale/lease or any other mode to any other person/miller, then such other person/miller shall also be considered to be defaulter until all the dues of

the agency of which such miller was defaulter, are cleared or the default cured and the concerned agency issues an NOC in favour of such defaulter miller and such premises.”

Counsel for the petitioner has rightly submitted that as per Section 24(a) of the said policy, if any order is to be passed, a written notice of the proposed action and opportunity of personal hearing is to be given before proceeding against the miller. Keeping in view the short timeline of the crop season also, a notice of two days is to be issued and a maximum of one adjournment is to be granted for personal hearing. Section 24(a) reads thus:-

***“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 timelines of the crop season, a notice of 2 days shall be issued to the Miller and a maximum of one adjournment for personal hearing.”

A perusal of the impugned order would go on to show that before passing the order on behalf of respondent no. 3, no such notice was issued to the petitioner.

In such circumstances, it is apparent that the principles of natural justice have been openly violated and the order is liable to be set aside on this ground alone.

Counsel for the petitioner has though vehemently submitted that on merits also, the petitioner is entitled for registration as Balwinder

Singh is no longer a partner of the petitioner-mill. These are factual matrixs' which have to be examined by the authorities and it is open to the petitioner to put forth its case before the said authority.

Accordingly, the petition is allowed to the extent that the order dated 06.11.2020 (Annexure P-13) is quashed. Respondent no. 3 shall issue a show cause notice of two days to the petitioner and after taking the reply, decide the issue afresh. The whole exercise be, thus, completed within a period of one week from today.

Writ petition stands allowed in the above terms.

04.12.2020
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No