

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-27992-2019 (O&M)
Date of Decision:-06.08.2020.

M/s Vijay Kumar Gupta & Company

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Raman Sharma, Advocate for the petitioner.

Mr. D.S. Sukarchakia, DAG, Punjab.

Mr. K.K. Gupta, Advocate for respondent Nos.4 to 6-FCI.

SANJAY KUMAR, J. (Oral)

CM-6660-CWP-2020

The application is ordered. The replication is taken on record.

CWP-27992-2019

The miscellaneous application in **CM-6659-CWP-2020** was filed by the petitioner concern seeking a direction not to consider it ineligible for allotment of paddy for the *kharif* milling season 2020-21 on the ground of default of its lessee, M/s Anand Foods, Moga. The petitioner concern also expressed willingness to furnish a bank guarantee, subject to determination of its liability by the competent civil Court.

The prayer of the petitioner concern in the main writ petition

14), 12/16.09.2019 (Annexure P-23), 09.09.2019 (Annexure P-22) and 12.07.2019 (Annexure P-16). The letter dated 29.08.2019 (Annexure P-14) was issued by the Food Corporation of India (for short, 'the FCI') requesting the petitioner concern to make good the losses caused to it by the lessee of the petitioner concern, M/s Anand Foods, Moga, as a condition precedent for allotment of paddy during the *kharif* milling season 2019-2020. The letter dated 12/16.09.2019 (Annexure P-23) was issued by the FCI disposing of the petitioner concern's grievance petition, recording that in terms of the order passed by this Court in **CWP-21635-2017**, the petitioner concern was bound to make good the losses caused to the FCI by M/s Anand Foods, Moga. By the letter dated 09.09.2019 (Annexure P-22), the FCI stated to the same effect while disposing of the petitioner concern's representation dated 25.07.2019. By letter dated 12.07.2019 (Annexure P-16), the District Controller, Food, Civil Supplies and Consumer Affairs, Moga, informed the petitioner concern that it had to deposit Rs.15 Lakh along with interest, in terms of this Court's orders in **CWP-21635-2017** and **LPA-70-2018**.

Though Mr. Raman Sharma, learned counsel for the petitioner concern, would contend that no commitment was given by the proprietor of the petitioner concern to clear the dues of the former lessee to the FCI, the order dated 30.10.2017 passed in **CWP-21635-2017** reads to the contrary. Therein, the petitioner concern had prayed for a direction to the authorities to allot it paddy for custom milling during the year 2017-18. While dismissing the writ petition, a learned Judge of this Court noted that the

proprietrix, to make good the losses caused to the FCI by M/s Anand Foods, Moga, for which she had taken responsibility and therefore, the petitioner concern had rightly been barred for the purpose of allotment of paddy. **LPA No.70 of 2018** filed by the petitioner concern against the aforesaid order was disposed of as infructuous along with another appeal, by the common order dated 04.07.2019. Perusal of the said order reflects that the petitioner concern, in its wisdom, did not choose to ask for any modification of the learned single Judge's order insofar as the liability of the petitioner concern towards the FCI was concerned. In the light of these facts, it is not open to the petitioner concern to now challenge the communications addressed to it, be it by the State or by the FCI, reiterating the liability of the petitioner concern towards the FCI in terms of the learned single Judge's order.

The writ petition is therefore utterly misconceived. In consequence, application filed in **CM-6659-CWP-2020** seeking relief in relation to the milling season 2020-21 is also liable to be rejected.

The writ petition is accordingly dismissed. **CM-6659-CWP-2020** is also dismissed. No order as to costs.

This order is passed with the consent of the learned counsel appearing for the parties. It is however made clear that this order shall not preclude the petitioner concern from taking recourse to appropriate remedies available to it in law, as per due procedure.

(SANJAY KUMAR)
JUDGE

August 06, 2020.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.