

CWP No.21924 of 2021

Date of Decision : 29.10.2021

Arya Industries and another

...Petitioners

Versus

State of Punjab and others

....Respondents

Coram : Hon'ble Mr. Justice B.S. WaliaPresent : Mr. Puneet Bali, Senior Advocate *assisted by*
Mr. Vipul Joshi, Advocate and
Mr. Vishawjeet Singh, Advocate
for the petitioners.

B.S. Walia, J. (VC)

[1] Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

[2] Prayer in the petition under Article 226 of the Constitution of India is for the issuance of a writ in the nature of certiorari for quashing order (Annexure P-6) dated 25.10.2021 passed by respondent No.3, declaring the petitioners as defaulters and blacklisting the petitioners from the allotment process for the Milling season 2021-22 in terms of Annexure P/1 i.e. Punjab Custom Milling Policy for Kharif 2021-22, (hereinafter referred to as 'policy')

[3] Learned counsel contends that impugned order (Annexure P-6) dated 25.10.2021 has been passed *de hors* Clause 24 of the policy, without giving the petitioners a written notice of the action proposed to be taken in the matter.

[4] Notice of motion.

[5] Ms. Sunint Kaur, learned Asstt. AG, Punjab, accepts notice on behalf of the respondents and has raised a preliminary objection that appeal lies under the provisions of Clause 24 (C) of the policy against the impugned order and in the circumstances, the instant writ petition is not maintainable, without the petitioners first invoking remedy provided for under the Policy.

[6] Learned State Counsel contends that in the circumstances, the petitioners are liable to be relegated to avail of their remedy as provided for under Clause 24(c) of the policy.

[7] Faced with the aforementioned preliminary objection, learned counsel for the petitioners contends that the petitioners may be permitted to withdraw the petition to file an appeal in terms of Clause 24(c) of the policy with directions being issued to the competent authority to decide the appeal in a time bound manner in view of limited number of days remaining for allocation of paddy for milling.

[8] Learned State Counsel states that in case appeal is filed, the same would be decided by the competent authority within 03 days.

[9] I have considered the submissions of learned counsel for the parties.

[10] In view of the stand of learned counsel for the parties, the instant petition is *disposed of* by granting liberty to the petitioners to file an appeal in terms of Clause 24(c) of the Punjab Custom Milling Policy for Kharif 2021-22 against impugned order (Annexure P-6) dated 25.10.2021 before the competent authority by Monday i.e. 01.11.2021,

and in case of the same being filed by the petitioners in the manner as

indicated above, the competent authority i.e. respondent No.2 is directed to consider and decide the same, in accordance with law, after taking into account all aspects of the matter within 03 days from the date of its receipt.

[11] Needless to mention, in the eventuality of the appeal of the petitioners being allowed, the petitioners would be entitled to the allocation of paddy as per entitlement in terms of the policy as on date.

29.10.2021

'Rajneesh'

(B.S. Walia)

Judge

Whether speaking/ reasoned

:

Yes/No

Whether reportable

:

Yes/No