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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 08.04.2022

1. CWP-3315-2019 (O&M)

M/S SARASWATI RICE MILL

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

2. CWP-3593-2019 (O&M)

M/S SHAKTI RICE MILL

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Manish Kumar Singla, Advocate and
Ms. Shikha Singh, Advocate
for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

Mr. Sumit Jain, Advocate
for respondent Nos.4 to 7.

JAISHREE THAKUR, J. (Oral)

By this common order, this Court proposes to dispose of the
above noted two writ petitions.

The instant petitions are filed under Articles 226/227 of the
Constitution of India for issuance of a writ in the nature of
certiorari/mandamus for setting aside letter dated 06.12.2018

(Annexure P-13) issued by respondent No.6 and letter dated 20.12.2018 (Annexure P-14) issued by respondent No.5 whereby dumping of rice lot against the allotted paddy has been stopped and FCI has refused to take the delivery of custom milled rice from the petitioner firm pertaining to the year 2018-2019.

For the sake of convenience, the facts are being noted from CWP No.3315 of 2019 titled as "*M/s Saraswati Rice Mill versus State of Haryana and Others*".

In brief, the facts of the case are that approximately 5271 metric ton paddy was allotted to the petitioner firm for paddy to be custom milled. As per the policy, the petitioner was to deliver the quality/quantity of custom milled rice to the FCI upto 31.03.2018, as per the specified norms in terms of the custom milling rice policy. The same was delivered and found to be in a satisfactory condition. Accordingly, keeping in view that the petitioner has successfully milled the paddy, a fresh allocation of 5418 metric ton paddy was again allotted for the year 2018-2019 and as per the policy, the custom milled rice was to be delivered. However, in the meanwhile, 53,735 bags of rice was sent by a 'Special' from Bhattu to Talkatora in Lucknow on 23.11.2018. On arrival at Talkatora, it was found that some bags were of a low quality, out of which 274 bags of rice were found broken, 30 damaged and 5 discoloured. The District Food and Supplies Controller, Fatehabad, took a decision to stop the supply of rice to the petitioner herein on the allegations that sub-standard rice has been supplied.

Learned counsel for the petitioner herein would contend that

the milled rice was supplied to the godowns of FCI and the same was duly checked, verified and accordingly payments were released by 30.06.2018 and, therefore, no occasion arose for the FCI to hold that the rice as supplied was sub-standard. It is submitted that in fact, no show cause notice was ever issued to the petitioner herein for them to approach the authorities and explain that the rice supplied after milling was within the specifications as would be evident from the fact that it was verified, checked and payments released. It is also argued that though the rice has been supplied in terms of the policy up till 31.03.2018, the 'Special' was sent almost five months later i.e. in the month of November, 2018 and there is every possibility that on account of rice not being stored properly/transported properly, the same was found to be sub-standard when it reached Lucknow. It is also argued that the miniscule amount of about 300 bags, out of 53,735 bags were found to be sub-standard. Learned counsel for the petitioner herein submits that without giving adequate opportunity of defending, FCI took a decision that in future, paddy would not be released for custom milling to the petitioner herein. It is further submitted that by virtue of the interim order, the petitioner has been supplying custom milled rice to FCI and as on date, there is no complaint received. He submits that the petitioner herein be given one opportunity to present their case before FCI, who would take into account all their pleas and in case any decision is taken not to allocate paddy to the petitioner in the forthcoming season, adequate notice be issued to them.

At this stage, learned counsel for respondent Nos.4 to 7 would submit that the petitioner herein is liable to make payment for the loss

incurred on account of around 300 bags of sub-standard rice. This question is left open for the authorities to decide.

Accordingly, the present petition is allowed and impugned orders dated 06.12.2018 (Annexure P-13) and dated 20.12.2018 (Annexure P-14), are hereby set aside with a direction that in case the procurement agency/FCI were to decide not to allocate paddy for custom milling, adequate show cause notice would be issued and opportunity of hearing be afforded.

08.04.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No