

119 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20070-2022
Date of Decision: 06.09.2022

Khyali Ram alias K.R.Meena and another Petitioners

Versus

Union of India and others Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Siddharth Gupta, Advocate,
for the petitioners.

RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents No.1 to 5 to re-analyze the rice sample(s) drawn by the team of Central bureau of Investigation in the year 2021 at Buffer Complex of Food Corporation of India at Patiala from the stacks of RRA 2020-2021 and 2019-2020 by issuing necessary directions to respondent No.6 and in case, the sample(s) available with CBI/CGAL is/are already utilized/damaged, then the third sample(s) available with respondent No.5 may be ordered to be analyzed for evaluating the percentage of damaged refractions in the rice, before taking any further action in this matter; as also seeking directions to the respondents that in case of non-availability of samples of the rice drawn from stack No.5B/164, 11B/373 and 1A/02 at Buffer Complex of FCI, Patiala, then fresh samples be ordered to be drawn from the aforesaid stacks for the purpose of their analysis by respondent No.6 or any other lab

authorized for this purpose for examining the percentage of damaged refractions in the rice; as also seeking directions to respondents No.1 to 5 not to shift/transfer/replace/dispose of the rice stocks available in rice stacks No.5B/164, 11B/371 and 1A/02 at Buffer Complex of FCI, Patiala, from which the sample(s) were drawn by the CBI in the year 2021; as also seeking directions to respondents No.1 to 5 not to take any departmental action against the petitioners till receiving of the report after the analysis/re-analysis of the aforesaid rice sample; and as also seeking directions to respondent No.7 to take a decision upon application/representation dated 06.08.2022 (Annexure P-7) in a time bound manner.

Notice of motion.

Mr. K.K.Gupta, Advocate and Ms. Urvashi Singh, Advocate, accept notice on behalf of respondents No.2 to 5-FCI.

The main thrust of the learned counsel for the petitioners is qua challenge to the report submitted by respondent No.6-Laboratory, which has found the sample of rice taken from the stock under the supervision of the petitioners to be “Beyond Rejection Limits (BRL)”.

It is not even in dispute that the sample in question was taken by the independent outside agency, i.e. Central Bureau of Investigation and the sample has been sent for analysis to a Government laboratory, at New Delhi. The laboratory has found the same to be “Beyond Rejection Limits”. Therefore, the sample has been found to be in violation of the specifications prescribed by the Government of India. Hence, at this stage, there is nothing before this Court to doubt the said report; as such.

Although, learned counsel for the petitioners has submitted that earlier, the Assistant General Manager of the respondents-FCI, who was holding the charge of the Quality Control in the area had also taken the sample randomly from the said store and on analysis from a laboratory at Patiala, the same was found to be upto the specifications prescribed by the Government, therefore, the respondents-FCI deserve to be directed to take another sample and to get the same re-analyzed, however, this Court does not find any substance even in the said argument; as well. The said sample was taken by the local officials at the level of working of the petitioners and the same was also got examined only at the local level laboratory of the respondents. On the other hand, the sample, which has been found to be sub-standard, was collected by an independent agency and it has been found to be not as per the specifications by a laboratory which is situated at New Delhi, which is under the Ministry of Agriculture and is specified laboratory for testing samples of the agricultural products and which is having more expertise and better facilities for analysis as compared to the laboratory situated at local level at Patiala.

Learned counsel for the petitioners has further submitted that since some other samples having been taken in another State were found to be sub-standard and the respondents-FCI had resorted to re-analyzing/re-sampling of the same, therefore, in the case of the petitioners as well, the same process should be adopted by the respondents-FCI. However, this Court does not find any legal basis in the said argument. There is nothing on record to show that the petitioners have any legal right to ask for

re-sampling or re-analyzing in any manner whatsoever. Any process of taking samples and analysis can not be made a basis by the petitioners to claim right of getting re-sampling or re-testing. Therefore, even this argument is liable to be rejected. Re-sampling or re-analyzing may have been resorted to for some other purpose qua some other party, however, even the learned counsel for the petitioners has not disputed the fact that there is no procedure prescribed under which the employee of the respondents-FCI can seek re-sampling and re-analysis.

In view of the above, finding no merit in the present petition, the same is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

06.09.2022
adhikari

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No