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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-21908-2022
Date of decision: 10.10.2022

M/S G.N. GENERAL MILLS GARH SHANKAR ROAD

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Sachin Jain, Advocate
for the petitioner.

Ms. Deepali Puri, Addl. A. G., Punjab.

Mr. Ashish Verma, Advocate
for respondent Nos.3 and 7.

JAISHREE THAKUR, J. (Oral)

This is a petition that has been filed under Articles 226/227 of the Constitution of India for issuance of an appropriate writ particularly in the nature of certiorari for quashing the impugned order dated 10.08.2022 (Annexure P-6) passed by respondent No.7, whereby allotment of paddy for the Kharif Season 2022-23 has been rejected on the ground that an execution has been filed against the party as per the arbitration award.

Learned counsel for the petitioner herein would contend that as on date, no proceedings are pending against the petitioner-Mill. It is submitted that PUNSUP had initiated a civil suit for the recovery of Rs.6,00,000/- and odd on account of alleged embezzlement for the crop year 2015-16, which civil suit was dismissed as well as the appeal. It is argued that the award as passed by the

Arbitrator against the petitioner-Mill was set aside and, therefore, the rejection of the application for allocation of paddy is wholly unsustainable and since there are no dues pending against the procurement agency, the petitioner-Mill cannot be declared as a defaulter.

Notice of motion was issued on 22.09.2022, pursuant to which reply has been filed on behalf of respondent Nos.3 and 7. Learned counsel for the respondents would submit that PUNSUP has approached this Court against the orders of dismissal of civil suit and appeal by filing CR No.6109 of 2019, titled as *Punjab State Civil Supplies Corporation Limited and Another versus M/s General Mills and Others*, which is pending consideration in this Court and, therefore, petitioner-Mill is a defaulter. It is further submitted that as per the Punjab Custom Milling Policy for Kharif 2022-23, the petitioner-Mill would have to first approach the District Allotment Committee in terms of the Punjab Custom Milling Policy for Kharif 2022-23 and in case, any adverse orders are passed, he would have a remedy of an appeal and a second appeal and without availing the remedies as available under the said policy, he cannot approach this Court directly in a writ petition.

I have heard learned counsel for the parties and in view of the fact that petitioner-Mill has not directly approached for allotment as on date, this writ petition is premature. However, since time is of the essence and allocation of paddy is already underway, the petitioner-Mill would approach the District Allotment Committee, within a period of two days from today and on filing the application/representation by the petitioner-Mill herein, the District Allotment Committee would consider the same expeditiously, preferably within a period of one week thereafter.

Needless to say, before passing any orders, the petitioner-Firm herein would be given an opportunity of personal hearing and in case, any adverse orders are passed, the petitioner-Firm would then avail of his remedies under Clause 24-C of the Punjab Custom Milling Policy for Kharif 2022-23. It is expected of the authorities to take its decision within a period of one week of the petitioner approaching them.

The argument as raised by learned counsel for the respondents that the petitioner is a defaulter as PUNSUP has approached this High Court by filing Civil Revision is unsustainable, this Court is of the opinion that until and unless there is a stay order, merely filing of a petition would not be sufficient ground to declare the petitioner-Firm as a defaulter.

At this stage, learned counsel for the petitioner would state that the petitioner-Firm is ready to furnish a conditional bank guarantee to the extent of his alleged default and on doing so, paddy be allotted to him. However, without the petitioner herein even having approached the District Allotment Committee for allocation of paddy, this Court is not inclined to pass any orders or issuance of any directions regarding the allocation of paddy. This plea of furnishing conditional bank guarantee to the extent of his default is to be taken up before the authorities concerned and his request for any conditional allotment would also be taken into account while passing the orders.

Consequently, the instant writ petition is disposed of in abovesaid terms.

10.10.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No