

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CWP No.24245 of 2022 (O&M)
Date of Decision.30.11.2022

M/s Kissan Rice Mills

...Petitioner

Vs

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Vishal Mehta, Advocate
for the petitioner.

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

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JAISHREE THAKUR J. (ORAL)

Reply filed by way of affidavit of Ravinder Kaur, District Controller, Food Civil Supplies and Consumer Affairs, Patiala on behalf of respondents No.1 to 4 in the court today is taken on record.

The instant writ petition has been filed under Article 226/227 of the Constitution of India for quashing of the impugned order/letter dated 26.09.2022 (P-5) whereby the capacity of the petitioner mill stands reduced from 4 tonnes to 2 tonnes without giving any opportunity of hearing.

Learned counsel appearing on behalf of the petitioner herein would contend that the petitioner-mill was established in the year 2007 and its capacity was fixed at 4 tonnes and since then, the petitioner has been milling at the said capacity. By impugned order, the capacity of the petitioner-mill has been reduced to 2 tonnes without affording an adequate opportunity of hearing to establish that the petitioner-mill fulfils all the norms under the current policy to be allowed to mill paddy at its capacity.

Pursuant to the notice of motion having been issued, reply has been filed on behalf of respondent No.1 to 4 wherein it is stated that a complaint was received from M/s J.S. Sandhu Rice Mills and M/s Nikhil Industries against the petitioner-mill alleging that the said mill has a total of 2 acres of land whereas the requirement to set up a rice mill having 4 tonnes capacity, a minimum of 3.5 acres of land would be required. It is further submitted that the petitioner-mill herein does not have the necessary equipment for milling of the rice in terms of the latest policy.

At this stage, counsel for the petitioner-mill would submit that representation had been filed on behalf of the petitioner-mill with the Department submitting that it had necessary land whereupon new machinery had been installed in terms of the new policy. Counsel would further submit that he had addressed letter dated 20.09.2022 to the Department that old machinery has been replaced with new one and therefore, the petitioner-mill would be entitled to mill paddy at a capacity of 4 tonnes. It is also argued that the impugned order that has been passed does not note the fact that new machinery has been purchased. It is submitted that after the impugned order was passed on 26.09.2022, a representation dated 30.09.2022 had been filed raising the same plea which ought to have been taken into consideration as well.

Learned State counsel points out that there is a clause in the policy, which envisages an appeal to be filed, in case, the petitioner-mill herein is aggrieved against reduction of its capacity from 4 tonnes to 2 tonnes.

In view of Clause 24 (c), which envisages an appeal to be filed before the Administrative Secretary against the order passed by DFS, the

petitioner is relegated to that remedy. Let this writ petition along with any other additional documents on which the petitioner seeks to rely upon be placed before the concerned authority i.e. Administrative Secretary, which would look into the issue and re-assess the milling capacity of the petitioner-mill herein, while taking into consideration the fact that the petitioner-mill has stated that it has necessary land, electric connection and has replaced the machinery with new one. Let a decision be taken within a week from the date petitioner puts in appearance before the concerned authority. Let an appearance be made on behalf of the petitioner before the Administrative Secretary on 02.12.2022 at 11:30 AM.

The writ petition stands disposed of in above terms.

(JAISHREE THAKUR)
JUDGE

November 30, 2022
Simran/Pankaj*

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