

104.

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CWP-25009-2022

Date of Decision: 15.11.2022

M/S LAKHPAT RAI RICE AND GENERAL MILLS Petitioner

Versus

STATE OF PUNJAB AND OTHERS Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vikas Kumar, Advocate, for the petitioner.

JAISHREE THAKUR.J (Oral)

The present writ petition has been filed under Article 226/227 of the Constitution of India with a prayer for the issuance of an appropriate writ, order or direction especially in the nature of mandamus directing the respondents to register the petitioner firm with the department and to allot paddy to the petitioner for the milling purposes as the petitioner fulfills all conditions under the Custom Milling Policy, kharif season 2022-23.

It is submitted that the petitioner-M/s Lakhpat Rai Rice and General Mills has been in the business of milling paddy since the year 1978 and as on date is not a defaulter. In the year 2010-11, the petitioner leased the mill to one M/s K.K. Rice & General Mills by way of a registered lease deed. The said M/s K.K. Rice & General Mills entered into an agreement with Markfed to mill the paddy. However, M/s K.K. Rice & General Mills on account of not fulfilling the conditions of the policy was declared as a defaulter. It is submitted that M/s K.K. Rice & General Mills forged the document showing that the petitioner herein was its guarantor. Since a

default had occurred, Markfed instituted a civil suit (CS-70444/2013) against the petitioner firm seeking to restrain the petitioner from alienating its property by claiming that the petitioner had stood as a guarantor to M/s K.K. Rice & General Mills. The suit was contested and was ultimately dismissed holding the alleged guarantee to be a forged document. The first and second appeal were also dismissed. So was the result in SLP No.67/2021 decided on 25.01.2021. Markfed did not rest here and went ahead and filed an arbitration petition against M/s K.K. Rice & General Mills alone. The petitioner was not party there, however, the Arbitrator for reasons best known to him relied upon the guarantee deed and held the petitioner herein as well liable for repayment of the deficit incurred by Markfed. The award of the Arbitrator was challenged and the same has been set aside qua the petitioner herein vide Annexure P-3 dated 01.10.2019.

Learned counsel for the petitioner would contend that once a civil suit and the arbitration proceedings have culminated in its favour, there is no reason for the petitioner to be treated as a defaulter and not accepting its online application. It is further submitted that the District Allotment Committee has not accepted the online application of the petitioner treating it still to be a defaulter along with M/s K.K. Rice & General Mills, whereas Markfed has already issued a NOC on 02.09.2020 vide Annexure P-6.

Notice of motion.

Ms. Deepali Puri, Additional Advocate General, Punjab, who is present in Court, accepts notice on behalf of respondents and seeks time to file reply.

I have heard learned counsel for the petitioner and have gone through the pleadings of the case.

Admittedly as per the pleadings available on the record, civil suit as filed by the Markfed stands dismissed and the orders affirmed right upto the Apex Court as would be evident from Annexure P-2. Even the arbitration proceedings as initiated stand nullified against the petitioner as would be reflected from order annexed as Annexure P-3. There is nothing on record to establish that the petitioner herein is a defaulter especially in view of the fact that the Markfed itself has issued NOC. In these circumstances, the Court fails to understand as to how and under what circumstances, the petitioner is not being considered for registration or allotment of paddy. No reasonable explanation seems to be coming forth. In such a situation, this writ petition is being disposed of by giving a direction to treat this petition as a representation for the District Allotment Committee to take a decision in the case regarding registration of the petitioner and allotment of paddy within a period of two days from today itself.

Needless to say, the petitioner will be given personal hearing before any decision is taken.

The petitioner to put an appearance before the District Allotment Committee on 17.11.2022 at 11.00 AM.

(JAISHREE THAKUR)
JUDGE

15.11.2022

sanjeev Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No