

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

227

**CWP-30726-2019
Date of Decision: 23.08.2022**

SATNAM SINGH

... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Ms. Himani Janswal, Advocate for
Mr. Anurag Chopra, Advocate
for the petitioner.

Mr. Sanjay Sabharwal, Addl. A.G., Punjab.

Mr. S.S. Gill, Advocate for
Mr. Manbir Singh Batth, Advocate
for the respondents No.2 and 3.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been filed under Article 226 of the Constitution of the India for issuance of a writ in the nature of Mandamus for directing the respondents No.2 and 3 to make the payment for the work undertaken by the petitioner who had been appointed as Transport Contractor for Khanna Cluster for all agencies of State of Punjab.

Learned counsel for the petitioner contends that the petitioner had been appointed as Transport Contractor for Khanna Cluster for a period of one year i.e. from 01.04.2018 to 31.03.2019 and the allocation of the tender was at the rate of 18% ASOR. She contends that pursuant to the allotment of the work, the petitioner undertook the same with the assistance of the respective rice shellers. The payments with respect to the invoices raised by the petitioner had not been cleared by the respondents even though the petitioner had duly executed the work allotted to him.

Reply by way of affidavit of Dampreet Walia, General Manager, Legal, PUNSUP has been filed today in Court. Copy thereof has been furnished to the learned counsel for the petitioner. The relevant extract of the same is reproduced herein below:

“1-2. XXX XXX XXX

3. *That the present writ petition filed by the petitioner is not maintainable in the present form as the petitioner has not approached this Hon'ble Court with clean hands. More so, the petitioner has already been paid the due amount for the work carried out by him, for the answering respondents vide Annexure P-14 and as on date no amount is due towards the petitioner.*

4. XXX XXX XXX

REPLY ON MERITS

1 to 14.The petitioner has raised disputed question of facts in the present writ petition, which cannot be redressed under Article 226 of the Constitution of India. The present matter can be adjudicated only after leading cogent evidence by the parties. The petitioner has been paid his due amount for the work carried out by him, for the answering respondent beyond 8 Kms of distance from the Mandi. It is pertinent to mention here that the letter annexed by the petitioner as Annexure P-3, is not related to the present case or present transportation by the petitioner. Rather the said letter has been written by the Deputy Commissioner to the FCI with regard to the heavy traffic at the time of moving of the stock stored from the FCI Centre by the Government. At the time of the paddy procurement only 2-3 trucks were move out dally out of the Mandi whereas at the time of the movement of the stocks stored there 100 of trucks will be used and the petitioner is having no role in that and the present case is also not related to that. The petitioner is trying to take any an undue advantage of the said letter without any basis and he is not entitled for the same. The bills annexed with the petition as Annexure P-4 and

P-5 are the bills generated by Shree Hari Krishana Rice and General Mills. In the said bills, it is nowhere been mentioned that the paddy has been got transferred by the petitioner. Annexure P-6 and P-7 does not relate to the answering respondents, rather the same relates to the PUNGRAIN. The petitioner in Annexure: P-8 has submitted that he has carried out the transportation work for the 10 mills, but the petitioner has worked only for six mills as mentioned below:

<i>Sr. No.</i>	<i>Name of Rice Mill</i>	<i>Mandi</i>	<i>Distance</i>
<i>1.</i>	<i>Ganga Rice Mills</i>	<i>Main Mandi Khanna</i>	<i>9.4 KM</i>
<i>2.</i>	<i>Ganga Rice and Flour Mills</i>	<i>Main Mandi Khanna</i>	<i>9.4 KM</i>
<i>3.</i>	<i>Kuldeep Nasib Rice & Gen. Mills</i>	<i>Main Mandi Khanna</i>	<i>9.5 KM</i>
<i>4.</i>	<i>Shri Gurudev 1008 Maharaj Triveni Puri</i>	<i>Main Mandi Khanna</i>	<i>13.0 KM</i>
<i>5.</i>	<i>Shri Gurudev 1008 Maharaj Triveni Puri</i>	<i>Rahoun Mandi Khanna</i>	<i>10.3 KM</i>
<i>6.</i>	<i>Libra Rice Mills</i>	<i>Rahoun Mandi Khanna</i>	<i>9.8 KM</i>

The petitioner has already been paid the amount of the aforesaid rice mills on 31.01.2019 amounting to Rs. 15,17,541/- and as of date, no amount is due towards the petitioner. It is further submitted that the petitioner has only worked for the 6 mills, but inadvertently in the order dated 11.04.2019 (Annexure P-11) 7 mills have been mentioned. Even in Annexure P-14, the details of 6 bills have been given. Shri Gurudev 1008 Maharaj Triveni Puri is a mills which was supplied paddy by the petitioner from Main Mandi, Khanna and Rahoun Mandi, Khanna. No payment as of date is due in any manner whatsoever; no document has been placed on record to prove the fact that the petitioner has worked for the mills as mentioned by him in Annexure P-8. The petitioner cannot take any undue advantage of the inadvertent clerical error.”

In view of the aforesaid stand taken by the respondent-department as regards the release of the undisputed payment and specifically to the effect that as on date, no amount is due to the petitioner, no further orders are required to be passed in the present petition. The same is accordingly dismissed at this stage.

The liberty, however, is granted to the petitioner to move an appropriate application seeking revival of the present writ petition in case the aforesaid assertion of the respondent-department is found to be false or incorrect or the undisputed amount is not released and the affidavit states to the contrary.

Needless to mention that the petitioner shall be at liberty to take recourse to the alternative remedies available to him in accordance with law with regard to the claims disputed by the respondents.

23.08.2022
rajender

(VINOD S. BHARDWAJ)
JUDGE

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