

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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**LPA-1083-2022 &
CM-2638-LPA-2022**

Date of Decision: December 05, 2022

M/S LUXMIN FOOD GRAINS (P) LTD.

...APPELLANT

Versus

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ALOK JAIN**

**Present: Dr. Kanu Sharma, Advocate,
for the appellant.**

AUGUSTINE GEORGE MASIH, J.

In this appeal, challenge is to the order passed by the learned Single Judge dated 11.11.2022 in three writ petitions, which were preferred by the millers of Punjab who had approached this Court with their grievances.

After referring to the history of the case, learned Single Judge, at the request of the counsel for the parties, took up their main writ petitions by preponing for final disposal.

Petitioners (appellant herein) had been allotted paddy for milling under the Punjab Custom Milling Policy for Kharif 2021-22. As per the schedule specified in the agreement entered into between the petitioners-millers and the procurement agencies, custom milled rice had to be delivered in the central pool of the Food Corporation of India (hereinafter referred to as 'FCI'), which could be the godown of the FCI itself and the Central Warehousing Corporation (hereinafter referred to as 'CWC').

After the rice had been delivered and accepted by the FCI, a random check was carried out on the stacks of the Custom Mill Rice, which was found to be Beyond Rejection Limit (BRL). A letter was addressed by the FCI dated 29.08.2022 to the Director, Food and Civil Supplies to ensure that the millers replace all BRL rice. The process for replacement was initiated by the millers. Ministry of Consumer Affairs, Department of Food and Public Distribution, Government of India received complaints regarding BRL rice which prompted the Ministry to send its own officials, who along with officials of FCI, carried out a joint inspection. There being divergence in opinion as to how the samples were to be taken, no consensus was reached.

During this process, it so happened that the writ petitioners came forward and made an offer that they were ready to replace the BRL rice with Custom Mill Rice of acceptable quality. Since it was not so accepted by the FCI for the reason that the Ministry had sealed the godown of FCI and CWC, the request could not be accepted.

Before the learned Single Judge, two affidavits were received from the authorities, namely, FCI and the Ministry of Consumer Affairs, Department of Food and Public Distribution regarding quality of Custom Mill Rice (CMR). The Court, on this basis, had directed for an independent body to take fresh samples and analyze the CMR vide order dated 09.11.2022. After passing of the said order, clarification/modification of the same was sought by the parties.

When the matter was taken up for consideration, counsel for the parties agreed for replacement of the BRL rice i.e. the millers agreed to replace the BRL rice with acceptable standard rice within a period of four

weeks and similarly, FCI and the District Allotment Committee also agreed to accept the replacement of BRL rice by the three millers. With this agreement having been entered into between the parties, the learned Single Judge disposed of not only the application for modification/clarification of the order dated 09.11.2022, as the same was no more required, but disposed of the writ petitions itself. While disposing of the writ petitions, following order was passed:-

“ All interim applications stand disposed of, and interim orders by this Court will merge with this order. Since millers, whose livelihood is dependent on milling paddy, have offered to replace BRL rice and in case they do so within a period of four weeks from today as has been undertaken by them, they are at liberty to approach the authorities concerned for setting aside any adverse orders that have been passed against them regarding allotment of paddy and in case, any such application is preferred, same be decided by the authorities expeditiously preferably within a period three days on receipt of the said application.”

The challenge, as has been posed in the present appeal, is to the above-referred to order. The plea, which has been taken by the counsel for the appellant, is that the counsel before the learned Single Judge did not have the instructions, on the basis of which, the Court had proceeded to dispose of the writ petitions where the millers were to replace the BRL rice within a period of four weeks. Allegations have also been made by the counsel for the appellant to the extent that the counsel before the learned Single Judge had proceeded to make the statement on his own. An effort

has also been made to contend that the paddy having been exhausted with the custom milling having come to an end, the replacement of the stock itself would be illogical and pertain to some of the millers.

A plea was also taken that the limited number of gunny bags were supplied and, therefore, while replacing the BRL rice, no gunny bags were available for doing the needful. It has further been asserted that as per the Custom Milling Policy for Kharif Marketing Season 2022-23, with the non-supply of replacement for BRL, the appellant-miller would not be allotted paddy during the season 2022-23 and, thus, would be ousted from the zone of consideration for allotment of paddy as per the policy. On these basis, counsel has sought to challenge the order, as has been passed by the learned Single Judge.

The plea, as is being sought to be projected before this Court, cannot be accepted as in case, the appellant had not given instructions to its counsel, an appropriate application before the learned Single Judge should have been moved. It would not be out of way to mention here that there is a change of counsel and the allegation, as has been made against the earlier counsel and that too, at his back, is not acceptable. Even otherwise, the grounds, as have been sought to be projected in the present appeal, carry no weight.

The order, as has been passed by the learned Single Judge firstly is based upon an agreement entered into between the counsel for the parties during the hearing of the case, which is logical, well reasoned, balancing the equities between the parties. The order makes it apparent that the finding with regard to BRL rice being available in the stacks of rice supplied to the FCI by the millers has not been disputed. The offer of

replacement thereof by the millers, therefore, cannot be said to be an unreasonable offer as they are, in any case, required to supply Custom Mill Rice according to the specifications and not beyond that.

We, therefore, do not find any ground for interference in the order passed by the learned Single Judge in the present appeal.

The appeal, therefore, stands dismissed with cost of Rs. 10,000/-.

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In the light of the disposal of the main appeal, this application has been rendered infructuous and the same is disposed of as such.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

**(ALOK JAIN)
JUDGE**

December 05, 2022
pj

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