104.

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-28872-2022
Date of Decision: 19.12.2022

M/S SUKHDEV RICE MILLS .... Petitioner

Versus

STATE OF PUNJAB AND OTHERS .... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Manish Kumar Singla, Advocate, for the petitioner.

Ms. Deepali Puri, Additional Advocate General, Punjab

JAISHREE THAKUR.J (Oral)

The present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of appropriate writ, order or direction especially in the nature of certiorari for quashing order dated 14.11.2022, Annexure P-3, the Punjab Custom Milling Policy for Kharif 2022-23, Annexure P-1, and order dated 08.12.2022, Annexure P-5.

Learned counsel appearing on behalf of the petitioner Mill would contend that the petitioner situated in District Malerkotla is being run as a partnership concern for the past five years, and has been milling paddy and delivering rice to the Central Pool of FCI. It is argued that the petitioner Mill applied online for being registered for allotment of paddy under the Punjab Custom Milling Policy for Kharif 2022-23 and on completion of the entire process of scrutiny of the documents by the District Level Scrutiny Committee i.e. respondent No.6, the petitioner Mill was allotted to PUNGRAIN and given Code No.103496. An agreement was also entered into on 12.10.2022 and in terms of the said agreement executed between the agency and the petitioner, 21251.250 quintals of paddy was supplied and stored at the premises of the petitioner Mill. The petitioner was then asked to produce a certificate from its lead bank i.e. Bank of India regarding CIBIL score and the same was supplied, as would be evident from Annexures P-2. In the said certificate, the Branch Manager for Bank of India, Malerkotla Branch, has specifically said that *M/s Sukhdev Rice Mills has not availed any loan facility from the bank, thus Bank of India has no lien of any kind on M/s Sukhdev Rice Mills and on its business, assets and paddy stored in their rice mill.* Counsel would urge that in fact this certificate is in consonance with Clause 4(viii) of the Punjab Custom Milling Policy for Kharif 2022-23. This clause pertains to criteria for allotment to a State Procurement Agency in particular. However, without giving any show cause notice to the petitioner Mill, the allotment stands cancelled. It is submitted that in terms of clause 24 (a), the petitioner Mill ought to have been given an opportunity of personal hearing before proceeding against it, which has not been done in the present case. Counsel would further urge that the allotment stands cancelled primarily on the ground that one of the partners stood guarantor to a housing loan of his brother for which an OTS settlement has been arrived at and the same would be cleared shortly. Rs.7 lakhs already stands paid and Rs.21 lakhs would be paid within a period of three weeks. Though the Bank has allowed 90 days time to clear the said amount, the said partner of the petitioner Mill is willing to clear it at an early date.

Notice of motion.

Ms. Deepali Puri, Additional Advocate General, Punjab, who is present in Court, accepts notice on behalf of respondents and would submit that the CIBIL score of the petitioner Mill is low and that is why, the allotment stood cancelled. It is submitted that the petitioner Mill was given an opportunity of personal hearing and given time to produce the certificate pertaining to its CIBIL score, however, the same was never produced. She would rely upon notices dated 07.10.2022 and 01.11.2022 in this regard. The vernacular of the said original notices are produced in Court. She would submit that there was a verification done of all the certificates as issued by various Banks and thereafter, on finding that the CIBIL score of one of the partners of the petitioner Mill was below 600, the allotment was cancelled in terms of the policy. The Irregularity Clearance Certificate in terms of the policy was produced at a much later date, which is not on the record.

I have heard learned counsel for the petitioner as well as learned State counsel and find that the instant petition deserves to be dismissed being devoid of any merits.

Admittedly, the petitioner Mill applied for allotment of paddy under the Punjab Custom Milling Policy for Kharif 2022-23, which is stringent policy in itself. The said policy is stringent so as to ensure that there is no financial loss to the State Exchequer dealing with the custom milled rice, which is a valuable commodity. In terms of the policy, the Mill is to maintain a CIBIL score of 6 and above, whereas any of the partners/owners, Directors is to maintain the CIBIL score of 600 and above.

Harmandeep Singh, one of the partners of the petitioner Mill, had stood as a guarantor for a housing loan for his brother which brought his

CIBIL score to be below 600 and it is on that account that on scrutiny of all documents, it was found that the petitioner Mill was not entitled for allotment even an agreement had been entered into. Two opportunities were allowed to the petitioner Mill to rectify the CIBIL score of its partner, however, it was unable to do so within the specified time.

Counsel for the petitioner Mill would rely upon the document of OTS which has been entered into with Canara Bank on 24.11.2022, which in principal has been accepted by the Canara Bank itself. The terms and conditions of the OTS is that the partner Harmandeep Singh along with Satnam Singh and Jaspreet Singh would clear the OTS that was offered on 04.11.2022, for paying an amount of Rs.28 lakhs. Rs.7 lakhs has already been paid, however, the balance of Rs.21 lakhs would be paid within three months of sanction of the OTS.

At the present moment, before this Court, there is no clear Irregularity Clearance Certificate as issued by the Canara Bank, which in turn, establishes that the CIBIL score of the partner of the petitioner Mill stands rectified. In such a situation when the policy itself does not permit allotment of paddy to any mill whose partner does not have requisite CIBIL score, this Court is not inclined to interfere in the matter. Consequently, the present writ petition stands dismissed.

(JAISHREE THAKUR)
JUDGE

19.12.2022
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No