

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

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**2023:PHHC:124975
CWP No.19856 of 2023
Date of Decision:22.09.2023**

M/s Malwa Rice Mills

....Petitioner

VS.

State of Punjab and others

....Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Harsh Goyal, Advocate
for the petitioner
Mr. Rohit Ahuja, DAG, Punjab
Mr. Animesh Sharma, Advocate
for Markfed-respondent No. 4

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking direction to respondents to consider petitioner or/and his lessee for the allotment of paddy for KMS 2023-24.

2. There was a rice mill known as Sidhu Rice Mill (for short 'SRM'). It was a proprietorship concern of Paramjeet Singh. In its ordinary course of business, SRM got paddy from Markfed during 2003-04. As per respondents, SRM committed default in supplying rice during 2003-04. SRM sold its running unit to M/s Malwa Rice Mills which was a proprietorship concern of Phoola Singh. SRM continued to receive stock from 2004-05 to 2009-10. M/s Malwa Rice Mills continued to receive paddy from State agencies from 2010 to 2022. The petitioner concern was

converted into partnership firm by way of joining Paramjeet Singh as partner to the extent of 5%. Paramjeet Singh joined petitioner firm on 01.04.2020. The respondent has refused to allot paddy for KMS 2023-24 to the petitioner on the ground that there was default by SRM during 2003-04 and proprietor of SRM has become one of the partners of the petitioner w.e.f. 01.04.2020.

3. Counsel for the petitioner *inter alia* submits that there is not even single document on record to disclose that Markfed had ever initiated recovery proceedings against SRM. Allotment of paddy from 2004-05 to 2022-23 indicates that there was no demand by Markfed against SRM. Phoola Singh had bonafidely purchased rice mill from Paramjeet Singh and at this belated stage, respondents have denied paddy on the simple ground that SRM was proprietorship concern of Paramjeet Singh and it defaulted in supplying rice during 2003-04.

4. Per contra, learned counsel for Markfed submits that District Allotment Committee has considered case of the petitioner and after due deliberations, petitioner has been denied allotment of paddy because Paramjeet Singh has joined petitioner as partner and he had defaulted during 2003-04. As per custom milling policy, if any one is partner, proprietor, trustee, director or member of an organization which violates custom milling policy of any year, any other organization where the said person joins as partner, proprietor, member, trustee is not entitled to allotment of paddy. Thus, petitioner is not entitled to paddy as per CMP 2023-24.

5. I have heard learned counsel for the parties and perused the record.

6. On being asked, learned counsel for Markfed expressed his

inability to produce any document indicating that Markfed had ever initiated recovery proceeding against SRM. It is apt to notice that SRM was a proprietorship concern and it is settled law that liability of a proprietorship concern is unlimited. The respondent, at any stage, could initiate recovery proceeding against Paramjeet Singh, however, they have opted not to initiate recovery proceeding against SRM. The respondents are alleging that there was default by SRM during 2003-04. On the one hand, respondents are alleging that there was default by SRM in 2003-04, on the other hand, they continued to allot paddy from 2004-05 to 2022-23 and no recovery action has been taken against Paramjeet Singh. The respondents were quite competent to take action against SRM and its proprietor prior to 2010 as well as post 2010.

7. As the respondents have failed to produce any document disclosing that they have initiated recovery proceedings against SRM and Concededly they have allotted paddy to SRM and Malwa Rice Mills during 2004-05 to 2022-23, this Court is of the considered opinion that decision of respondents not to allot paddy to petitioner during KMS 2023-24 is unfair, unjustified and arbitrary. The respondents are directed to consider case of the petitioner in the light of KMS 2023-24 and allot paddy, if petitioner complies with other terms and conditions of the Policy.

8. In view of the above, the petition stands disposed of.

22.09.2023
paramjit

(JAGMOHAN BANSAL)
JUDGE

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