

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

203

CWP-20470-2023

Date of Decision : 29.09.2023

M/s Om Rice Mill

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Shiv Kumar, Advocate
Mr. Love Dev Singh, Advocate
for the petitioner.

Mr. Deepali Puri, Addl.A.G., Punjab.

Mr.Ashish Bansal, Advocate
for respondents No.4 and 5

JAGMOHAN BANSAL, J. (Oral)

1. On 15.09.2023, the following order was passed :

“The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of orders dated 16.09.2022 (Annexure P-5), 20/21.10.2022 (Annexure P-7) and order dated 01.11.2022 (Annexure P-8) passed by respondents whereby petitioner has been denied allotment of paddy for KMS 2022-23 and 2023-24.

The petitioner is a proprietorship concern and engaged in the business of processing of paddy. The petitioner is dependent upon paddy supplied by respondents. Wife of owner of the petitioner was one of the members of Dhaliwal

Gram Udhyog Samiti which during KMS 2004-05 defaulted to the tune of Rs.37.62 lakh. The respondents by impugned orders have denied to allot paddy on the ground that wife of the proprietor of the petitioner was member of a Samiti which is a defaulter. The said Samiti has been purchased by Sharda Rice Mill, Tapa and respondents have allotted paddy to aforesaid buyer whereas allotment of paddy has been denied to the petitioner.

Notice of motion, returnable for 22.09.2023.

Mr. Deepanjay Sharma, DAG, Punjab, who on advance notice is present in Court, accepts notice on behalf of respondents No. 1 to 3. He seeks time to file reply and address arguments.

Ms. Suruchi Sharma Tiwari, Advocate for Mr. Asish Bansal, Advocate, accepts notice on behalf of respondents No. 4 and 5.

To be shown in the urgent list.

2. Learned counsel for the petitioner submits that the petitioner has been treated defaulter on the ground that wife of proprietor of the petitioner concern was one of the members of Dhaliwal Gram Udhyog Samiti, however, the respondents-MARKFED till date has not filed any claim against aforesaid Samiti, though respondent is claiming that there was default by Dhaliwal Gram Udhyog Samiti during 2004-05. As there is no case pending against the aforesaid Samiti, it is totally arbitrary and unjustified to deny paddy to the petitioner who is not directly connected with aforesaid Samiti, though, wife of the proprietor of the petitioner was member of the Samiti.

3. Learned counsel for the respondents No.4 and 5-MARKFED expressed his inability to controvert the fact that till date, no suit or any other petition has been filed against Dhaliwal Gram Udhayog Samiti though respondent is claiming that there was default by said Samiti during 2004-05. He further does not dispute the fact that in the reply, they have conceded that a writ petition has been filed against FCI with respect to disputed amount.

4. I have heard the arguments of learned counsel for the parties and perused the record.

5. From the perusal of record and arguments of both sides, it comes out that the petitioner-mill was installed two decades back and respondent continued to allot paddy to petitioner till 2021-22. For the first time, paddy was not allotted during 2022-23. The petitioner has not applied for the allotment of paddy, however, Sai Rice Mill which is lessee of the petitioner has applied for the allotment of paddy. As per terms and conditions of the policy, the lessee can apply for the allotment of paddy like owner of a unit.

6. The respondent by impugned order had denied allotment of paddy on the sole ground that wife of owner of the petitioner concern was one of the member of the aforesaid Samiti. It is conceded case of the respondents that default relates to CMP 2004-05, however, till date, no claim has been lodged against aforesaid Samiti. The respondent has lodged claim against FCI and that too by way of writ petition before this Court which was dismissed in default in 2012 and has been restored in 2022. The respondents-MARKFED has not lodged any claim against aforesaid Samiti and the petitioner was continuously allotted paddy during 2004-05 to 2021-

22, thus, it would be in the interest of justice and fitness of things if the petitioner is allotted paddy because non-allotment would ruin its business. The unit was not allotted paddy during 2022-23 and if it continues in subsequent years, the unit would certainly be closed. It would deprive the petitioner from his valuable right of business and trade guaranteed by Article 19(1)(g) of the Constitution of India. It also amounts to violation of fundamental rights guaranteed by Articles 14 and 21 of the Constitution of India.

7. In the wake of aforesaid facts and discussion, the impugned order is set aside and respondents are directed to consider case of the petitioner or its lessee for the allotment of paddy in terms of policy 2023-24. The claim of the petitioner would be considered and decided within one week from today.

29.09.2023
anju

(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>