

In the High Court of Punjab and Haryana at Chandigarh
104

CWP-25267 of 2022 (O&M)
Date of Decision: 03.08.2023

M/s Sran Rice Mills and another

---Petitioners

versus

State of Punjab and others

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Jimmy Singla, Advocate
for the petitioners

Mr. Deepanjay Sharma, DAG, Punjab

Ms. Maloo Chahal, Advocate
for respondents No. 4 and 5

JAGMOHAN BANSAL, J. (ORAL)

1. On 09.11.2022, following order was passed by this Court:-

“The present writ petition has been filed seeking allotment of paddy to the petitioners, which applied under the Punjab Custom Milling Policy for Kharif 2022-2023. Aggrieved against the non-release order, the petitioners have approached this Court.

It is contended that the petitioners had

applied online for allotment of paddy on 03.10.2022 well before the last date of applying online i.e. 04.10.2022. In fact, the petitioners have deposited an amount of Rs.1 lakh as non-refundable security and as per milling capacity, their entitlement is 5000 MT. It is further contended that the persons similarly situated, who had applied online, have already been issued release orders whereas the petitioners herein were not offered any such allotment.

Pursuant to notice of motion order, appearance has been caused on behalf of respondents.

Mr. Aulakh, AAG, Punjab would point out that as on date, 750 MT paddy is available to be lifted by the petitioners and release orders have already been issued in favour of the petitioners on 21.10.2022 and 06.11.2022 wherein the petitioners have been asked to lift paddy from Ferozepur, considering the fact that no paddy is available in Moga Centre where the mill is linked. Initially, the release order was issued from Amritsar and now the release order has been issued from Ferozepur. Copy For Subsequent orders see of release orders have been furnished to the counsel appearing for the petitioners in Court and the petitioners are at

liberty to lift said paddy.

At this stage, counsel appearing for the petitioners would submit that in fact, petitioners had applied for 5000 MT paddy and had deposited an amount of Rs.1 lakh as non-refundable security for the same and therefore, ought to be allowed to lift paddy to that extent, otherwise they would be put to great hardship.

Counsel appearing for the respondents seeks some to file reply, which would also address the argument raised regarding refund of nonrefundable security as taken by them, while allotting paddy less than the milling capacity.

Adjourned to 07.12.2022.”

3. The State has failed to point out good reason for not refunding Rs. 1,00,000/- despite non-allotment of even one M.T. material even though the petitioner has deposited Rs. 1,00,000/- for allotment of 5000 M.T. material. The State is relying upon Clause 10 of the Custom Milling Policy for the year 2022-23.

4. Learned State counsel contends that it is the discretion of District Allotment Committee to allot paddy and in case of non-availability of paddy in one District, District Allotment Committee may allot paddy from any other District. The petitioner was granted opportunity to get paddy from other Districts and he has also given in writing that if he does not get paddy, he would not claim.

5. The petitioner has nowhere submitted that he would not

claim refund if he is not allotted even one M.T. material out of claimed 5000 M.T. material. The concerned District was not having paddy at the time of acceptance of money. The State has no authority to withhold money which was received as security for allotment of paddy. Had State allotted paddy even one M.T., the State would have some case. In the absence of allotment of even one M.T. material, the State has no authority to withhold money. The act of respondent-State amounts to violation of Article 265 read with Section 300A of the Constitution of India. The State is directed to refund a sum of Rs. 1,00,000/- to the petitioner within four weeks from today.

6. Pending Misc. application, if any, stands disposed.

**(JAGMOHAN BANSAL)
JUDGE**

03.08.2023

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Whether speaking/reasoned : Yes

Whether reportable : Yes/No