

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

105

**2023:PHHC:143361
CWP No.25544 of 2023
Date of Decision:09.11.2023**

M/s Lakshmi Rice & Gen. Mills

....Petitioner

VS.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Daman Dhir, Advocate
for the petitioner

Mr. Inderpreet Singh Kang, AAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of orders dated 30.10.2023 (Annexure P-7), dated 29.09.2023 (Annexure P-6) and dated 15.09.2023 (Annexure P-5) whereby claim of the petitioner for allotment of paddy for KMS 2023-24 has been declined and further petitioner has been declared defaulter.

2. The petitioner is a partnership firm. The petitioner was allocated paddy during KMS 2022-23. Due to death in the family, the constitution of partnership firm was changed. A few new members entered and old members resigned from partnership firm. The petitioner applied for allocation of paddy as old partnership firm for KMS 2022-23 and paddy was allotted. The petitioner in August' 2023 applied as new partnership firm.

The head office of the respondent department granted approval for change of constitution of partnership firm, however, District Allotment Committee did not allot paddy on the ground that petitioner during previous year secured paddy as old partnership firm whereas new partnership firm was constituted in May' 2022. The petitioner has been declared defaulter. The petitioner unsuccessfully preferred appeal before first as well as second appellate authority.

3. Learned counsel for the petitioner submits that there was change in the partnership firm which, admittedly, was not disclosed to respondents during KMS 2022-23, however, for KMS 2023-24 intimation within time was given and head office has approved change of constitution of partnership firm, thus, petitioner cannot be declared defaulter for indefinite period.

4. Learned counsel for the respondents submits that there was concealment on the part of petitioner during KMS 2022-23, thus, petitioner is a defaulter and paddy cannot be allocated to it.

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

6. From the perusal of record, it comes out that there was change in the constitution of partnership firm in May' 2022, however, petitioner was allocated paddy as old partnership firm because petitioner did not disclose constitution of new partnership firm. The petitioner did not default in supplying rice though there was concealment of change of constitution of the partnership firm. The petitioner in August' 2023 disclosed change in constitution of partnership firm and head office of the respondent

department has approved change in constitution of partnership firm. Though there is concealment of fact on the part of petitioner yet no loss has been caused to the respondent. It is further pertinent to notice that there was concealment for KMS 2022-23, however, there is no concealment for KMS 2023-24. Applying the principle of proportionately, the petitioner may be treated as defaulter for KMS 2023-24, however, he cannot be treated as defaulter for indefinite period. Accordingly, it is held that petitioner shall not be treated as defaulter for subsequent years though respondent department is at liberty to consider case of petitioner for allocation of paddy for current year.

The petition is disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

09.11.2023
paramjit

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