

27.02.2024

Ct. 654

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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 4764 of 2024

NPG Rice Mill Private Limited & Anr.

-Vs-

State of West Bengal & Ors.

Mr. Debabrata Saha Roy
Mr. Pingal Bhattacharyya,
Mr. Subhankar Das

... for the petitioners

Mr. Sirsanya Bandopadhyay
Mr. Ritesh Kr. Ganguly

... for the State

Affidavit of service filed on behalf of the
petitioners is taken on record.

Leave is granted to the petitioners to correct the
designation of the respondent no. 2 in the cause title of
the writ petition.

This writ petition has been filed challenging the
delisting/de-empanelling of the petitioners' rice mill by
the District Controller (F&S), North 24-Parganas.

The brief fact of the case is that the petitioner no.
1 is a private limited company under the name and
style of "*NPG Rice Mill Private Limited*" registered under
the Companies Act, 1956 and the petitioner no. 2 is one
of the directors of the said company. The said company
has been running the rice mill business under an

agreement with the Government of West Bengal, which was executed initially on 29th October, 2018 for Kharif Marketing Season (KMS) 2018-2019. For the period of Kharif Marketing Season (KMS) 2022-23, another agreement was executed on 21st October, 2022. However, for the period of Kharif Marketing Season (KMS) 2023-24, the petitioners were de-empanelled and no agreement was entered into. The petitioners made a representation to the Principal Secretary & Food Commissioner, Food & Supplies Department, Government of West Bengal on 27th December, 2023 for redressal of their grievances. However, such representation has not been considered by the concerned authority. The petitioners have been verbally informed that due to arrest of one of the directors of the company by the Enforcement Directorate, the petitioners' company has been de-empanelled. The petitioners are constrained to file the present writ petition challenging such de-empanelment.

Mr. Debabrata Saha Roy, learned advocate for the petitioners submits that since entering into an agreement with the Government of West Bengal for carrying on business of rice mill in the year 2018, there has been no adverse report against the petitioners. The performance of the petitioners was satisfactory and good. However, without any reasonable cause, the petitioners have been de-empanelled and supply of paddy has been totally stopped. As per the agreement,

the same can be terminated by Food & Supplies Department by giving at least 15 days notice. However, no such notice of termination was served upon the petitioners and on all of a sudden, the petitioners' company has been de-empanelled. The petitioners made a representation in this regard on 27th December, 2023, which has not been considered by the authority. He also indicates that since the petitioners were carrying on rice mill business on the basis of an agreement entered into in the year 2018, fresh application was never required. In the light of his aforesaid submissions, he prays for consideration of the representation made by the petitioners on 27th December, 2023.

Learned Advocate for the State-respondents submits that as per Clause 16.3 of Order on procurement for KMS 2023-2024 no rice-mill shall have any right to claim extra paddy on the ground that installed capacity is higher than any other rice-mill or any other reasons whatsoever. Further, any disputes and differences arising by and between the parties shall be referred to Arbitrator to be appointed by the Secretary, Food & Supplies Department, Government of West Bengal. Thus, the petitioners ought to have approached before the concerned authority for appointment of Arbitrator for a resolution which has not been done in the present case and accordingly, the present writ petition is liable to be dismissed.

It is not in dispute that the petitioners' company was carrying on business of rice mill on the basis of an agreement executed with the Government of West Bengal on 29th October, 2018 for Kharif Marketing Season (KMS) 2018-2019. For the period of Kharif Marketing Season (KMS) 2022-23, another agreement was also executed on 21st October, 2022. It is the specific case of the petitioners that they have been de-empanelled. Admittedly, the allotment of paddy to the petitioners has suddenly been withheld by the State authorities without any notice to the petitioners. The petitioners approached by way of representation submitted before the concerned authority for redressal of their grievance which has not been considered.

In view of the above, the Principal Secretary & Food Commissioner, Food & Supplies Department, Government of West Bengal being the respondent no. 2 herein is directed to consider and dispose of the representation of the petitioners dated 27th December, 2023 within a period of three weeks from the date of communication of this order by passing a reasoned order in accordance with law after giving an opportunity of hearing to all concerned including the petitioners.

The result of such disposal shall be communicated to the petitioners within a week thereof.

Learned advocate for the petitioners is directed to serve copy of this order upon respondent no.2, the

Principal Secretary & Food Commissioner, Food & Supplies Department, Government of West Bengal.

With the aforesaid directions, the writ petition being **WPA 4764 of 2024** stands disposed of.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(**Bivas Pattanayak, J.**)