IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

213

CWP-19921-2024 (O&M)
Date of decision:25.09.2024

M/S LAKSHMI RICE AND GEN MILLS ....Petitioner

Versus

STATE OF PUNJAB AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present : Mr. Daman Dhir, Advocate
for the petitioner.

Mr. S.S. Hira, DAG, Punjab.

ALOK JAIN. J.(Oral)

1. The present petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the action of the respondents in compelling the petitioner to get its registration afresh and treating it to be a new mill, on the ground that in the year 2022, the petitioner had concealed the constitution of their partnership.

2. Learned counsel for the petitioner submits that because of the said act, the petitioner has already suffered losses, for not being able to run its business and seek any allocation of paddy for KMS 2023-2024 and the same cannot be

perpetuated. Learned counsel for the petitioner further relied upon the order passed by the Co-ordinate Bench of this Court in CWP-25544-2023, whereby, the following order was passed:-

> *"Applying the principle of proportionately, the petitioner may be treated as defaulter for KMS 2023-2024, however, he cannot be treated as defaulter for indefinite period. Accordingly, it is held that petitioner shall not be treated as defaulter for subsequent year though respondent department is at liberty to consider case of petitioner for allocation of paddy for current year."*

3. Learned counsel for the petitioner also submits that the respondent party is pressing upon the petitioner to get itself registered *de novo* by relying upon following Clauses of the KMS 2023-2024, which read as under:-

> *"iii A person registered previously shall be required to re-apply on https://anaajkharid. in portal for a de novo registration where:*
>
> *A. Such registered person now intends to conduct milling operations in terms of this policy from a new mill premise, whether owned or leased.*
>
> *B. If there is a change in title or change of constitution in the legal structure of the registered person i.e., including but not limited to a change in any of the partner/member(s) /director(s) /trustee(s) of the registered person.*
>
> *C. There is a revision in the capacity of the mill from the time when the person last applied for registration.*
>
> *D. A New mill or a Lessee Mill (after the expiry of its lease period) has to get itself registered de novo on https://anaajkharid.in portal.*
>
> *In case of registration of lessee rice mills where the owner party, lessee party and mill premises are the same, but the lease period has expired, such registration may be renewed at DFSC level only.*
>
> *E. A mill which was blacklisted for custom milling during the*

previous years due to any reason shall have to be registered afresh after being declared a clear mill by the DFS.

F. A mill which was not allotted during the KMS 2022-23 or/and did not undertake milling of paddy during the KMS 2022-23.

G. Mill purchased/bought under SARFAESI Act, whose registration is allowed by DFS.

H. For mills to be registered under afore-mentioned Clause E,F& G, the registration shall be a single step process i.e., they shall apply only for final registration."

4. Learned State counsel has emphasized on Clause F and submits that since the petitioner was not allocated any paddy during KMS 2022-2023 and did not undertake any milling of the paddy during 2022-2023, therefore, a *de novo* registration is sought. Learned State counsel further submits that in the new policy for the year 2024-2025, the same condition has been envisaged.

5. *Per contra*, learned counsel for the petitioner submits that the petitioner has already applied for the *de novo* registration but that is not the issue, the issue is that respondents are treating the petitioner as a new mill, and therefore, the petitioner would fall under Clause B, whereby, there is only change in the constitution of partnership deed. Learned counsel for the petitioner also relied upon Clause 10 (b), which reads as under-:

"b. For New Mills

1. For the purpose of allocation of paddy, a Mill/Miller is a new rice mill if

A. It is established/registered with the Department after KMS 2022-23 and/or whose performance data for KMS 2022-23 is not available.

B. If there is more than 50% change in ownership/partnership it will be considered as a new mill only for the sake of registration

> ***and there will be no reduction in entitlement of maximum allocable paddy, provided all the conditions for setting up of new mill are fulfilled as per prevailing policy.***
>
> *C. In case a rice mill was operated on lease last year and the same mill is to be operated by the owner party or any other lessee in KMS 2023-24, the rice mill shall be treated as a new rice mill. Conversely, in case a mill has been operated by the owner last year and the same mill is to be operated by a lessee in KMS 2023-24, the rice mill shall be treated as a new rice mill."*

6. Learned counsel for the petitioner further submits that the change in the constitution is less than 50 per cent and hence the petitioner would not fall under the category of a new mill. Learned counsel for the petitioner does not deny the position that the petitioner has to get the registration done *de novo* but has to be considered as an existing mill and would not fall under the definition of a new mill.

7. At this stage, learned State counsel submits that the record clearly reveals that the petitioner has to be considered for a new mill for the reason that the petitioner is *de novo* registered and there is no data available to KMS 2022-2023.

8. I have heard learned counsel for the parties at length and it is admitted position of the parties that the petitioner was not allocated the paddy on account of change of constitution for the year 2023-2024, therefore, the performance data of the previous year would not be available. The petitioner cannot be penalized twice over with regard to the same issue i.e. change in constitution, as the petitioner has already suffered on account of the same reason by not getting any allocation for the year 2023-2024.

9. In the light of the above, the present petition is disposed of with the direction to the respondent to consider the case of the petitioner afresh by not treating the firm as a new mill, while considering for allocation for the year 2024-2025, however, subject to the petitioner complying with the other required eligibility.

10. The present petition is disposed of with the aforesaid directions.

11. All pending application(s), if any, stand **disposed** of accordingly.

(ALOK JAIN)
JUDGE

25.09.2024
amandeep

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No