

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-23939-2024 (O&M)
Reserved on: 25.11.2024
Date of decision: 17.12.2024

M/S MALWA RICE MILLS

..Petitioner

Versus

STATE OF PUNJAB AND ORS.

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harsh Goyal, Advocate
for the petitioner.

Mr. Salil Sabhlok, Sr. DAG, Punjab.

Mr. Vinod Kumar Polist, Advocate
for respondent No.4.

ANIL KSHETARPAL, J.

1. Factual Background:-

1.1 The petitioner-firm operates a rice mill located in Amargarh, Tehsil and District Malerkotla. The State of Punjab in order to fulfil its obligation of contributing rice to the central pool has created various agencies like Markfed, Pungrain etc. Every year, these instrumentalities purchase paddy from the farmers and the job of de-husking is allocated to the various rice mills located in the State. For making that purpose seamless, the State of Punjab every year adopts a policy. This year Custom Milling Policy 2024-2025 was issued. Clause 7(a)(v) of the aforesaid policy reads as under:-



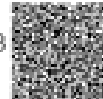
“v. The mill shall also be considered as defaulter if it's Owner/Partner/Director/Member/Lessee/Lessor/ Trustee is also an Owner/ Partner/ Director/ Member/ Lessee/ Lessor/Trustee of another defaulter Mill.”

1.2 The Markfed (State agency) has recommended to stop allotment to the petitioner-firm during Kharif year 2024-2025 due to recovery of Markfed towards the mill, correctness whereof is being challenged by the petitioner in the writ petition.

1.3 In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.

1.4 Originally, the rice mill M/s Sidhu Rice Mill, was a proprietorship concern of Sh. Paramjeet Singh Sidhu. In the Kharif marketing year 2004-2005, M/s Sidhu Rice Mill delivered rice, which were below rejection limit (low quality). The rice supplied by various other rice mills was also found below rejection limit. Ultimately, Food Corporation of India (in short 'FCI') on 22.06.2011 deducted Rs.8,09,59,947/- including the penal interest from the payment payable to Markfed. It is claimed by the Markfed that M/s Sidhu Rice Mill was required to compensate it to the extent of Rs.37,25,351/-, which has not been paid.

1.5 It is claimed that somewhere in the year 2010, Sh. Phoola Singh purchased the rice mill situated at land measuring 8 bighas and 20 biswas. The land measuring 4 bighas and 4 biswas was purchased from Sh. Paramjeet Singh, whereas, 4 bighas and 16 biswas was purchased from Sh. Malkiat Singh vide sale deed dated 01.10.2010. He renamed the mill as M/s Malwa Rice Mill. It was leased to M/s Shiv Shakti Rice Mills, Amargarh, for Kharif Marketing Season 2010-2011 and 2011-2012, which was allocated

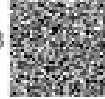


paddy for the purpose of de-husking by Punjab State Warehousing Corporation. In the year 2012, a partnership firm came into existence to run M/s Malwa Rice Mill consisting of Sh. Phoola Singh, Sh. Malkiat Singh and Sh. Sukhwinder Singh. From 2010 to 2012, the rice mill continued to operate. In 2020, new partnership deed was executed consisting of the following partners:-

- “a) Malkiat Singh*
- b) Sukhwinder Singh*
- c) Paramjeet Singh Sidhu”*

1.6 Sh. Paramjeet Singh Sidhu is the same person, who was proprietor of defaulter mill M/s Sidhu Rice Mill. Subsequently, the constitution of the firm undergone change and it is claimed that on 05.02.2024, the partnership consisted of Sh. Pardeep Sharma and Sh. Sukhwinder Singh as partners.

1.7 In the Kharif Marketing Season 2023, the petitioner-firm filed two writ petitions. In CWP-12475-2023, direction was issued to District Allotment Committee to consider the petitioner's firm for allotment but no order regarding recovery from petitioner with respect to M/s Sidhu Rice Mill was passed. In CWP-19856-2023, the High Court allowed the writ petition on the ground that the respondents have failed to produce any document disclosing that they have initiated recovery proceedings against M/s Sidhu Rice Mill, the paddy was allotted to M/s Sidhu Rice Mill and M/s Malwa Rice Mill during 2004-2005 to 2022-2023. Thus, the Court came to conclusion that the respondents decision not to allot paddy to the petitioner during Kharif Marketing Season 2023-2024 is unfair, unjustified and



1.8 The correctness of the judgment was challenged in a letters patent appeal, which was dismissed while refusing to condone the delay of 218 days in filing the appeal.

1.9 This year again, the petitioner has filed the writ petition. Respondent No.4-Markfed has filed a reply objecting to issuance of the writ petition.

2. Arguments put forth by the learned counsel for parties:-

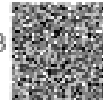
2.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

2.2 The petitioner's counsel contends that despite orders of the High Court on 22.09.2023, the petitioner-mill has been deprived of allotment as it has not been included in the list of eligible rice mills. He submits that well within the prescribed time, the petitioner reconstituted the firm on 05.02.2024 w.e.f. 01.04.2024 and none of the partner of the petitioner-firm is a defaulter.

2.3 Per contra, the respondents counsel has stated that the antecedents of the petitioner-firm are not good and the Markfed cannot be directed to allocate paddy as it has already suffered huge losses due to supply of below rejection limit rice. He submits that District Allotment Committee does not have confidence in allocating paddy to the petitioner-firm.

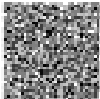
3. Analysis and Discussion:-

3.1 This Court has considered the submissions and perused the paperbook.



3.2 It is evident from the aforesaid facts that the instrumentalities of State including Markfed in order to get the paddy de-husked allocate it to various private rice mills. In order to regulate and bring transparency, fresh Custom Milling Policy is notified every year however, the decision to allocate paddy to a particular rice mill is purely an economic decision arising out of commercial consideration. Paddy purchased with public exchequer is stored in a private mill in order to get the same de-husked. The allocating agency is required to have confidence in the aforesaid rice mill because government's paddy worth crores of rupees is stored for de-husking. After de-husking, the rice is supplied to the FCI in a staggered manner as per the policy. In such matters, the interference of the Court is required to be extremely limited because any direction may result in loss to the public exchequer. Unless and until the Court comes to a conclusion that the decision is result of mala fide and totally arbitrary the Courts are not expected to interfere. If the policy decisions pass the test of reasonableness, the Court should not issue directions while overlooking and side stepping the provisions of the Custom Milling Policy. In order to protect its interest, the Government which lacks confidence in the petitioner-rice mill, has taken a decision not to allocate paddy.

3.3 This Court has carefully read the judgment passed by a coordinate bench in Civil Writ Petition No.12475 of 2023. The aforesaid judgment was with respect to Kharif Marketing Season 2023-2024, which is not applicable to the facts of the present case. Moreover, the judgment passed on 22.09.2023, is in the peculiar facts of the case and does not amount to declaration to the effect that the petitioner-mill is entitled to allocation of paddy in violation of the custom milling policy.



3.4 In the peculiar effects of the case, the Court issued direction on 22.09.2023, however this cannot be considered to have been issued for in definite period.

3.5 Though the petitioner-mill has now reconstituted the firm, however the District Allotment Committee, which is the custodian of paddy purchased from public exchequer cannot be forced to allocate despite lack of confidence. Moreover, the allocation of entire paddy for the Kharif Marketing Season 2024-2025 has already been made.

4. Decision:-

4.1 Keeping in view aforesaid facts, this Court does not find it appropriate to issue the writ.

4.2 Hence the writ petition is dismissed.

17th December, 2024

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No