



**114+217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Reserved on : 17.12.2024
Pronounced on : 14.01.2025**

CWP-27111-2023 (O&M)

M/S SHRI GANESH RICE MILL AND OTHERS Petitioner(s)

Vs

STATE OF HARYANA AND OTHERS ...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Kamal Gupta, Advocate
Mr. Varun Sharma, Advocate
for the petitioners in CWP-30102-2024 and
CWP-30310-2024.

Mr. Mohit Garg, Advocate (through v.c) and
Mr. Daman Dhir, Advocate
Mr. Harsh Goyal, Advocate
for the petitioners in CWP-27111-2023, CWP-29148-2023
CWP-29357-2023, CWP-29388-2023, CWP-352-2024
CWP-4820-2024, CWP-762-2024, CWP-29386-2023,
COCp-4159-2024, COCP-3483-2024, COCP-3569-2024,
COCp-3916-2024, CWP-24402-2024, CWP-24629-2024,
CWP-29727-2024, CWP-29732-2024, CM-16246-CWP-2024 in
CWP-27453-2023, CM-16222-CWP-2024 in CWP-28425-2023,
CM-16176-CWP-2024 in CWP-28426-2023, CWP-2582-2024.
CWP-33821-2024, CWP-33238-2024, CWP-32915-2024 and
CWP-32877-2024.

Mr. Karan Singla, Advocate and
Ms. Malvi Aggarwal, Advocate
for the petitioners in COCP-3568-2024, COCP-3569-2024 and
CWP-30102-2024.

Mr. Kapil Gupta, Advocate for
Mr. Vivek Goyal, Advocate
for the petitioner in CWP-9-2024.

Mr.Satya Pal Jain,Sr. Advocate,Addl. Solicitor General of India
with Mr. Rajiv Sharma, Senior Panel Counsel,
for the respondent-UOI in CWP-27111-2023,
CWP-29148-2023, CWP-29357-2023, CWP-29388-2023



CWP-352-2024, CWP-4820-2024, CWP-762-2024,
CWP-9-2024, COCP-4159-2024, COCP-3483-2024,
COCP-3568-2024, COCP-3569-2024, COCP-3916-2024
CWP-29386-2023, CWP-24402-2024 and CWP-24629-2024
CWP-33821-2024, CWP-33238-2024, CWP-27453-2023,
CWP-32915-2024 and CWP-32877-2024.

Mr. Naveen S. Bhardwaj, Addl. Advocate General, Haryana.

Mr. R.S. Pandher, Sr. DAG, Punjab.

Mr. Raman Sharma, Advocate
for respondent No.4-HAFED in CWP-27111-2023,
CWP-29148-2023, CWP-29357-2023, CWP-29388-2023,
CWP-352-2024, CWP-4820-2024, CWP-762-2024,
CWP-9-2024, COCP-4159-2024, COCP-3483-2024,
COCP-3568-2024, COCP-3569-2024, COCP-3916-2024.

Mr. Bhanu Pratap Singh, Advocate
for respondents No. 1 to 3 in CWP-29732-2024.

Mr. Anmol Puri, Advocate
for the respondents No. 1 to 3 in CWP-29727-2024.

Ms. Mansi, Advocate for
Mr. Padam Kant Dwivedi, Advocate
for respondent No.5 in CWP-27111-2023.

Mr. K.K. Gupta, Advocate for the respondent-FCI(in all cases).

Mr. Chanakya Batta, Advocate
for respondent No.5 in CWP-29386-2023.

Mr. Mayank Bajaj, Advocate
for respondents No. 1 to 7 in CWP-30310-2024.

Mr. Amaninder Preet, Advocate
for respondent-Markfed in CWP-762-2024; CWP-24402-2024;
CWP-24629-2024; CWP-30102-2024; CWP-30310-2024 &
CWP-29388-2023.

Mr. Navdeep Chhabra, Advocate
Mr. Manbir Singh Batth, Advocate
for respondent No.7 & 8 in CWP-4820-2024.
for respondents No. 9 & 11-PSWC in CWP-24402-2024,
for respondents No. 13 & 15 in CWP-24629-2024,
for respondent Nos.5 and 8 in CWP-30310-2024,
for respondent Nos.5, 13 to 16, 6, 22 to 27 in CWP-30102-2024
for respondents No.8 & 10 in CWP-33238-2024.

Mr. Deepak Gupta, Advocate
for respondents No. 6-PUNSUP in CWP-30310-2024.



Mr. Anil Gupta, Advocate for
Mr. Ashish Verma, Advocate
for respondents No. 8 and 9 in CWP-27111-2023 and
for respondents in CWP-29386-2023.

Ms. Ananya Ahluwalia, Advocate
Mr. Sumit Jain, Advocate for respondent No.2-Pungrain
in CWP-2582-2024 & CWP-27453-2023.

ANIL KSHETARPAL, J.

1.1 Factual Matrix:-

With the consent of learned counsel representing the parties, a bunch of Civil Writ Petitions and COCPs, detail whereof is given at the foot of the judgment, shall stand disposed of by this common order.

1.2 Learned counsel representing the parties have agreed that for the purpose of noticing facts CWP-27111-2023, '*M/s Shri Ganesh Rice Mill and others vs. State of Haryana and others*' be treated as lead case.

1.3 In all these writ petitions, the petitioners pray for issuance of a writ in the nature of certiorari to quash Food Corporation of India's (hereinafter referred to as 'FCI') order passed on 22.11.2023 (Annexure P-19), asking the petitioners to replace the stock of Custom Milled Rice, which has been found to be beyond the requisite parameters as contemplated by Government of India. In substance, the petitioners are challenging the FCI's direction to the rice millers to replace fortified rice, which was found beyond the prescribed standard.

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

1.5 The States of Punjab and Haryana contribute significant quantity of rice to the central pool. For that purpose, both the States have created its



instrumentalities for the purpose of purchasing paddy from farmers through commission agents, which is then allocated to Rice Mills for dehusking (job work). For that purpose, every year a Custom Milling Policy is adopted by the States in order to bring transparency in allotment of the paddy and to regulate the supply of rice to the FCI. The petitioners are the Rice Mills, who after dehusking the paddy are expected to supply rice to the FCI on behalf of instrumentalities of the State. Before allotment of paddy, the Rice Mills and the instrumentalities of the State enters into contract which contains a Clause for referring the matter to the Arbitration for dispute resolution.

1.6 In the year 2019, Government of India took an initiative to address the problems of anemia and micro-nutrient deficiency/malnutrition amongst residents. For that purpose, blending of normal rice with Fortified Rice Kernels (hereinafter referred to as 'FRK') in the ratio of 1:100 was introduced, for which, additional payment was to be made to the Rice Miller. After blending FRK in the ratio of 1:100 with Custom Milled Rice, the Rice Miller is required to supply the fortified rice to the FCI. In the Kharif Marketing Season 2021-22, the fortified rice was delivered by the writ petitioner. However, huge quantity of fortified rice on subsequent analyses was found to be outside the prescribed norms. As per the terms, the Rice Miller is required to replace the entire rejected stack within a specified time, failing which, the payment and the storage charges shall be recovered from the State or its instrumentalities.

1.7 While filing the reply, it has been disclosed that Custom Milled Rice/fortified rice should be having micro-nutrient level in the prescribed limits with blending ratio of 0.90% to 1.10% as per the SOP dated 15.03.2022. The range of micro-nutrients reads as under:-



Micronutrient	Reference Range
Iron(Micronized Ferric Pyrophosphate)	28-42 mg/kg
Folic Acid	75-125 µg/kg
Vitamin B12	0.75-1.25 µg/kg

1.8 It would be noted here that during the pendency of the writ petition, learned counsel representing the FCI has informed the Court that a decision has been taken to accept fortified rice as CMR, where micro-nutrient level is below the prescribed limit, subject to recovery of cost incurred on fortification of stacks. However, where micro-nutrient level is above the prescribed range, the FCI refuses to accept the supply. This dispute has led to filing of various writ petitions and contempt petitions.

2. **Submissions put forth on behalf of rival parties:-**

2.1 Heard the learned counsel representing the parties at length and perused the written submissions and the paper-books.

2.2 Dr. Anmol Rattan Sidhu, learned Senior counsel representing the petitioners while referring to Annexure P-12, submits that FCI has admitted that the Millers may not be at fault for quality of FRK. He submitted that FRK is not manufactured by the petitioners Mills, rather, it is purchased from the manufacturers empanelled by the State. It is further submitted that there is a huge difference in the reports when sample was sent to the different Government approved laboratories. Moreover, the Custom Milling Policy only talks of supply of Custom Milled Rice, and is silent regarding any penalty or replacement for low quality of FRK.

2.3 Mr. Mohit Garg, learned counsel representing the petitioners-Rice Mills, while referring to the various documents has submitted that the Rice Millers are not at fault because the FRK has been procured from empanelled manufacturers who had assured about the quality. It is further submitted that



directions have been for replacement of the stock without ascertaining as to whether there is any fault on the part of the Rice Mills. He also relied upon the judgment passed in '*M/s Mahavir Rice and General Mills Vs. State of Punjab and others*', CWP-20143-2023 decided on 15.09.2023.

2.4 Mr. Daman Dhir, Advocate while reiterating the afore-mentioned arguments has submitted that the petitioners are performing job work of Custom Milling Policy and they are not the manufacturers of FRK. He submitted that the petitioners were only required to blend FRK with conventional rice in the ratio of 1:100 and there is no deviation. He submitted that as per Clause 13.5 of the tender, in the event of stock not conforming to specification, the manufactures of kernels are liable for rejection of stocks and imposition of penalty. It is also submitted that initial sampling done by the FCI was not a joint sampling as the samples were drawn without intimating the State Agency or associating the petitioner.

2.5 He further submits that the FCI itself has issued letter to the Government of India for liquidation of fortified rice stocks having fortification level below/beyond prescribed limit stating therein that a meeting on FRK/premix quality was held on 26.10.2023 at FSSAI Headquarters, Chaired by CEO, FSSAI. During the meeting, the issue qua the fortification level was raised and was intimated by FSSAI that the stocks having fortificants lower or higher than prescribed value are absolutely safe for human consumption provided the stocks having excessive content of fortificants should be within Tolerance Upper Limit. Various other counsels have also adopted the forgoing arguments.

2.6 *Per contra*, learned counsel representing the FCI, has submitted that as per written statement filed by the FCI, the Rice Millers are required to deliver



fortified rice in specified bags containing their identification. At the time of delivery of stock, the technical staff of FCI conduct random sampling with regard to quality and quantity of stock of fortified rice. In this case, on subsequent analyses, it was found that fortified rice beyond the acceptable limit is not safe for human consumption and might cause any other harm amongst humans. He submitted that FCI is not party to the bilateral agreement between the Rice Miller and the instrumentalities of the State and FCI cannot be forced to accept rice, which is beyond the acceptable limit. He also relied upon the judgment passed by the Division Bench in ***'Food Corporation of India and another Vs. M/s Inder Singh Ajit Singh and others'***, LPA-1570-2011, decided on 29.08.2012. Mr. R.S. Pandher, Senior Deputy Advocate General, Punjab has submitted that as many as 467 rice stacks pertaining to KMS 2022-23 were declared Beyond Rejection Limit (hereinafter referred to as 'BRL') by the FCI for micro-nutrients being detected on higher/lower side than permissible limit. He further submitted that Department of Food and Public Distribution (DFPD) notified Standard Operating Procedure (SOP) for monitoring quality of food grains stock procured under the Decentralized Procurement Scheme and guidelines stipulate that FRK manufacture should be a licensee of FSSAI and comply with the BIS standards for blending of CMR with FRK for making fortified rice. He further submitted that despite the State Government having no role/control over the quality of fortified rice being supplied by the Rice Millers to the FCI, it is the State Government which stands to lose financially as the FCI immediately deducts/withholds amount equivalent to BRL stacks from the Agency's account.

2.7 Similarly, learned counsel representing various instrumentalities of the States have also filed synopsis.



3. **Analyses, Discussion & Decision:-**

3.1 First of all the scope of judicial review in policy decision is extremely limited, when it has been taken by the experts. In this case, the dispute is with regard to blending of FRK beyond the permissible limit. This fortified rice is for the consumption of citizens through public distribution supply/system. If the experts are of the opinion that such rice may not be safe for human consumption, this Court in exercise of writ jurisdiction is not expected to interfere.

3.2 Secondly, FCI is not a party to the bilateral agreement between State instrumentalities and Rice Mill. Hence, FCI cannot be forced to accept fortified rice which is beyond the prescribed limit. FCI is an instrumentality of the Central Government and is bound by instructions issued by the Government of India. Its duty is to procure rice for public distribution supply through Ration Depots and under other schemes of the Central Government. In fact, this issue is squarely covered by the judgment of the Division Bench in *M/s Inder Singh Ajit Singh's case* (Supra). Learned Single Judge has allowed the writ petitions preferred by the Rice Mills, however, the same was reversed by the Division Bench on the ground that there is no privity of contract between FCI and Rice Mills. The Court has held that the directions issued by the FCI to receive rice which is beyond the permissible prescribed prescription is not appropriate.

3.3 With reference to the submissions of learned counsel representing the petitioners, it would be noticed that Annexure P-12 is an internal communication which cannot be made basis to claim that the FCI is bound to accept fortified rice, which is beyond the prescribed limit.

3.4 Similarly, the argument of learned counsel that FRK is not manufactured by the Rice Mills does not have legs to stand because the Rice Mills



are liable to purchase the FRK from its manufacturers. Of course, manufacturers are empanelled by the State or its instrumentalities, however, FCI has no role to play. Similarly, the difference in the reports submitted by various Government approved laboratories does not help the petitioners because the report had been sought from multiple laboratories while giving opportunity to check the quality. It has been found that a significantly large number of sample sent for testing have been reported to be deficient to the standards till date.

3.5 Similarly, even if the agreement between Rice Mill and procurement Agency is totally silent regarding any penalty or replacement of low quality of FRK, it would have no adverse impact because FCI is not a party to the aforesaid agreement.

3.6 This Court has read the judgment in *M/s Mahavir Rice and General Mills's case* (Supra). In the aforesaid case, a Co-ordinate Bench has held that the Rice Mills should not be denied allotment of paddy for next year subject to furnishing of undertaking by the petitioners to the effect that if during the course of investigation enquiry, if any, conducted by the FCI, it is found that they are guilty of alleged defects, they would replace BRL/defective stock or in alternative pay the cost of stock with interest. Thus, the aforesaid judgment does not help the petitioners.

3.7 Furthermore, the dispute between the manufacturer of the FRK and the Rice Millers or procurement Agency is not binding on FCI. The question whether the manufacturer of FRK is liable for rejection of stock and imposition of penalty is not subject matter of present writ petition. Moreover, in this case, predominantly the question is higher ratio of blending of FRK with Custom Milled Rice which is beyond permissible limit. The blending is to be carried out

by the Rice Millers and not manufacturer of FRK. Similarly, failure on the part of the FCI to carry out joint sampling is disputed by FCI. In any case, subsequent samples were drawn after associating the petitioners.

3.8 While deciding the writ petitions under Article 226 of the Constitution of India, the Court is not expected to decide disputed questions of facts, which are required to be proved by leading evidence. In this case, more than one disputed question of fact is involved.

3.9 Keeping in view the aforesaid discussion, the petitioners are relegated to the alternative remedy and hence, all the writ petitions and COCPs are disposed of.

3.10 All the pending miscellaneous applications, if any, are also disposed of.

14.01.2025
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes No

Whether Reportable : Yes No

1.	CWP-29148-2023	M/S JAI AMBE RICE MILLS AND OTHERS VS STATE OF PUNJAB AND OTHERS
2.	CWP-29357-2023	M/S RAJAN RICE MILLS VS STATE OF HARYANA AND OTHERS
3	CWP-29388-2023	M/S JSB RICE AND OTHERS VS STATE OF PUNJAB AND OTHERS
4.	CWP-352-2024	M/S HARYANA RICE AND GENERAL MILLS & OTHERS VS STATE OF HARYANA AND OTHERS
5.	CWP-4820-2024	M/S HARKRISHAN AGRO FOOD VS STATE OF PUNJAB AND OTHERS
6.	CWP-762-2024	CHARDI KALAN RICE MILLS AND OTHERS VS STATE OF PUNJAB AND OTHERS
7.	CWP-9-2024	M/S GOURI AGRO RICE MILL AND



		OTHERS VS STATE OF HARYANA AND OTHERS
8.	COCp-4159-2024	M/S C.S. RICE & AGRO INDUSTRIES AND ORS VS VIKAS GARG AND ORS
9.	COCp-3483-2024	M/S GURU TEG BAHADUR RICE MILLS VS B. SIRNIVASAN AND ORS
10.	COCp-3568-2024	M/S GURU KIRPA RICE MILLS VS B. SRINIVASAN AND OTHERS
11	COCp-3569-2024	M/S JSB RICE VS B. SRINIVASAN AND OTHERS
12.	COCp-3916-2024	M/S MAHADEV RICE MILLS VS B. SRINIVASAN AND ORS
13.	CWP-29386-2023	M/S BRIJ RICE MILLS VS STATE OF PUNJAB AND OTHERS
14	CWP-29727-2024	M/S ABHINANDAN RICE MILLS VS STATE OF PUNJAB AND ORS
15	CWP-29732-2024	M/S K.P RICE MILLS VS STATE OF PUNJAB AND ORS
16.	CWP-30102-2024	M/S SHREE BABA JI RICE MILLS AND OTHERS VS STATE OF PUNJAB AND OTHERS
17.	CWP-30310-2024	M/S BHAGWATI RICE MILLS AND OTHERS VS STATE OF PUNJAB AND OTHERS
18.	CWP-24402-2024	M/S SHRI JAWALA JI RICE MILLS AND OTHERS VS UNION OF INDIA AND OTHERS
19.	CWP-24629-2024	M/S SHRI GANPATI RICE & GENERAL MILLS AND OTHERS VS UNION OF INDIA AND OTHERS
20	CWP-33238-2024	M/S SATYAM AGRO AND ALLIED INDUSTRIES AND OTHERS VS UNION OF INDIA AND OTHERS
21.	CWP-32915-2024	M/S PUNJAB GRAIN EXPORTS VS STATE OF PUNJAB AND OTHERS
22.	CWP-33821-2024	M/S BHAGWATI INDUSTRIES AND OTHERS VS. UNION OF INDIA
23.	CWP-32877-2024	M/S PARAS AGRO FOODS AND OTHERS AND UNION OF INDIA AND OTHERS
24.	CWP-27453-2023	M/S LUXMI GANESH AGRO INDUSTRIES AND OTHERS VS. STATE OF HARYANA AND OTHERS
25	CWP-28425-2023	M/S KESHAV FOODS AND OTHERS VS STATE OF HARYANA AND OTHERS
26.	CWP-28426-2023	M/S B.R. AGRO INDUSTRY VS. STATE OF



		HARYANA AND OTHERS
27	CWP-2582-2024	M/S JAI GAU MATA RICE MILLS AND OTHERS VS. STATE OF PUNJAB AND OTHERS

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(ANIL KSHETARPAL)
JUDGE