
(2012) 08 P&H CK 0280
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 17437 of 2011 (O and M)

Gagandeep Jindal

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 17-08-2012

Acts Referred:

Citation : (2012) 08 P&H CK 0280

Hon'ble Judges : Mahesh Grover, J

Bench : Single Bench

Advocate : Rajiv Atma Ram, with Mr. Ashul Gupta, for the Appellant; Ranvir S. Chauhan, D.A.G. Punjab, Shri Karminder Singh, Advocate for the Union of India, Shri Hari Pal Verma, Advocate for the F.C.I. and Shri Harsh Aggarwal, Advocate, for the Respondent

Judgement

Mahesh Grover, J.—Shri Hari Pal Verma, Advocate states that the Food Corporation of India is not willing to accept the rice which has been milled by the petitioner. Shri Harsh Aggarwal, Advocate states that it is the Punjab Ware Housing Corporation who is to lift the rice and supply it.

2. The solitary dispute that has been raised in the instant petition is that the petitioner who is a rice miller, has milled the paddy and the rice is lying ready in his premises, the delivery of which is not being accepted by the F.C.I. There is material to suggest that the F.C.I. has been evading the acceptance of this rice on account of lack of space. On an earlier occasion, the petitioner had approached this Court by way of C.W.P. No.8472 of 2010 in which Shri Hari Pal Verma, counsel for the F.C.I. stated that the F.C.I. was prepared to take the delivery of rice, but because of paucity of space the same shall be lifted proportionately from all the rice mills. The said writ petition was disposed of primarily on the statement of Shri Hari Pal Verma, Advocate in the following terms :

It is stated by Shri Hari Pal Verma, learned counsel for the FCI that in so far as storage space is concerned, the FCI is committed to provide the same and shall

ensure that sufficient space is made available to the petitioner by 30th September, 2010. As regard to the benefit of driage claimed by the petitioners, learned counsel for the petitioners submits and rightly so that the petitioners shall make a comprehensive representation to the respondent authorities in terms of the Government of India circular dated 28.9.2007 (Annexure P-11).

Keeping in view the assurance given by learned counsel for the FCI for providing sufficient storage space, the writ petitions are disposed of with liberty to the petitioners to make a self-contained representation to the respondents for the release of the benefit of driage and/or any other benefit, to which they may be entitled. As and when they make the representation(s), the receiving authority shall consider and dispose of the same as per the Rules/Agreement/policy instructions on the subject, as early as possible and preferably within a period of two months from the date of its receipt.

3. Despite the aforesaid, the petitioner continues to face the predicament where he is prepared to deliver rice to the F.C.I., but the said agency is not prepared to accept the same in view of the shortage of space.

4. Today, when the matter was argued, Shri Hari Pal Verma, counsel for the F.C.I. stated that he has no objection if the petitioner disposes of the rice in open market, as they are unable to accept the same. He further states that this will not invite any legal complications for the petitioner and invite any charge for the violation of the agreement requiring the petitioner to supply the custom milled rice to the F.C.I.

5. Having regard to the aforesaid statement of the learned counsel for the F.C.I., I am of the opinion that the petitioner who is a rice miller and is confronted with a situation of approaching fresh paddy season, would require space within his mill to meet the exigencies of the oncoming season. He cannot be made to suffer for the whims of the F.C.I. who expresses its inability to lift the custom milled rice for want of space or on account of other constraints and at the same time, hold the petitioner hostage and bound to the agreement of providing custom milled rice to the Corporation.

6. The writ petition is therefore, disposed of with liberty to the petitioner to sell the custom milled rice available with them in the open market and as stated by Shri Hair Pal Verma, it shall not invite any penal or legal consequences. The petitioner shall deposit the sale proceeds of this rice after deducting milling charges. This aspect shall however, be left to the satisfaction of both the parties and shall not fetter their right to assert their monetary claim.