

CWP-1949-2024 (O/M)
CWP-1976-2024 (O/M)

-1- 2025:PHHC:145945
2025:PHHC:145949

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 16.10.2025

CWP-1949-2024 (O/M)
M/s Shiva Rice Mills

2025:PHHC:145945
..... Petitioner

Versus

State of Punjab and others

..... Respondents

CWP-1976-2024 (O/M)
M/s A-One Rice Mills

2025:PHHC:145949
..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Sanjeev Sharma, Senior Advocate with
Mr. Daman Dhir, Mr. Raman Dhir,
Mr. Vikram Sharda, Advocates
for the petitioners in both cases.

Mr. Harpreet Singh, AAG Punjab.

Mr. Manbir Singh Batth, Advocate
for respondent No. 5 (MARKFED) in both cases.

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HARSH BUNGER, J.

1. This order shall dispose of aforementioned two civil writ petitions i.e. CWP-1949-2024 and CWP-1976-2024, as common questions of law and facts are involved therein.

2. Prayer in the said civil writ petitions filed under Article 226 of Constitution of India, inter alia, is for issuance of a writ in the nature of certiorari for setting aside the order dated 17.11.2023 (Annexure P-9), passed by District Allotment Committee (respondent

No. 3 herein), whereby allotment of paddy to the petitioner-Mills, has been cancelled and the petitioner-Mills have been blacklisted for a period of three years. In addition, another direction has been issued to the District Manager, MARKFED and District Manager, PUNSUP, to immediately arrange for shifting of paddy from the petitioner-Mills.

2.1 A further prayer has been made for setting aside the order dated 13.12.2023 (Annexure P-11), passed by the Director, Food, Civil Supplies and Consumer Affairs, Government of Punjab (in short 'first appellate authority') as well as order dated 23.01.2024 (Annexure P-12), passed by the Secretary, Department of Food, Civil Supplies and Consumer Affairs, Punjab (in short 'second appellate authority'), whereby the appeals preferred by the petitioner-Mills, have been dismissed.

2.2 For the sake of brevity, facts have been taken from CWP-1949-2024.

3. Petitioner-Mill is stated to be in the business of milling of paddy and during the previous crop years, petitioner-Mill is stated to have been allotted to various procurement agencies for the purpose of custom milling of paddy. It is stated that for the crop year 2023-24, petitioner-Mill was allocated to MARKFED (respondent No. 5), whereupon the petitioner-Mill submitted requisite securities and thereafter, custom milling agreement dated 21.09.2023 (Annexure P-2) was executed between petitioner-Mill and procurement agency.

3.1 It appears that on 29.10.2023, a surprise checking (physical verification) was conducted at the mill premises of the petitioner by a team of officers, whereupon the inspecting team found 18474 bags of

paddy over and above the custom milling paddy and approximately 1780 quintals in the shape of a heap within the mill premises of the petitioner.

3.2 Thereafter, the Chairman, District Allotment Committee (respondent No. 3 herein) passed an order dated 29.10.2023 (Annexure P-3) holding that petitioner-Mill has violated Clause 9 a (v) of the Punjab Custom Milling Policy for Kharif 2023-24 (in short 'Custom Milling Policy'), accordingly, allotment to petitioner-Mill was cancelled and petitioner-Mill was further blacklisted for a period of three years with a further direction to the procurement agency to shift the paddy from the mills.

3.3 Thereafter, vide order dated 03.11.2023 (Annexure P-4), shifting of paddy from petitioner-Mill to other mills, was ordered.

3.4 Feeling aggrieved against aforesaid order dated 29.10.2023 (Annexure P-3) and order dated 03.11.2023 (Annexure P-4), petitioner-Mill approached this Court by filing a civil writ petition (CWP-25184-2023), which was allowed, vide order dated 08.11.2023 (Annexure P-5), by observing as under :-

“13. In the case in hand, the respondent by impugned order has blacklisted the petitioner for a period of 3 years. The order has been passed without issuing show cause notice followed by opportunity of personal hearing. The respondent was bound to confront the petitioner with adverse material and thereafter grant opportunity of personal hearing. The respondent has neither issued show cause notice nor granted opportunity of personal hearing.

In the absence of show cause notice and opportunity of personal hearing, the impugned order is bad in the eye of law and deserves to be set aside. Accordingly, the present writ petition is allowed and the impugned order is set aside

with liberty to respondent to pass fresh order after issuing show cause notice and granting opportunity of personal hearing.”

3.5 Thereafter, de-novo proceedings were initiated against the petitioner-Mill by issuing a show cause notice dated 09.11.2023 (Annexure P-6) to the petitioner-Mill, seeking its explanation as regards violation of Clause 9 a (v) and Clause 9 a (viii) of Custom Milling Policy.

3.6 It appears that the petitioner-Mill did not respond to aforesaid show cause notice dated 09.11.2023 (Annexure P-6) and rather sought time to furnish its defence; whereupon another show cause notice dated 15.11.2023 (Annexure P-7) was issued to the petitioner-Mill, to which the petitioner-Mill submitted its reply dated 17.11.2023 (Annexure P-8).

3.7 Respondent No. 3 (District Allotment Committee), upon considering the matter, passed an order dated 17.11.2023 (Annexure P-9), holding that the petitioner-Mill has violated Clause 9 a (v) and Clause 9 a (viii) of Custom Milling Policy and, therefore, its allotment was cancelled and petitioner-Mill was blacklisted for a period of three years. In addition, the procurement agency was also directed to immediately arrange for shifting of paddy from the petitioner-Mill.

3.8 Thereafter, the petitioner-Mill again approached this Court by filing a civil writ petition (CWP-26559-2023), however, same was disposed of, vide order dated 24.11.2023 (Annexure P-10), by granting liberty to the petitioner-Mill to prefer an appeal before appellate authority.

3.9 Thereafter, the petitioner-Mill is stated to have filed an appeal before first appellate authority, however, same was dismissed, vide order dated 13.12.2023 (Annexure P-11).

3.10 Still aggrieved, the petitioner-Mill preferred second appeal before Secretary, Department of Food, Civil Supplies and Consumer Affairs, Punjab (second appellate authority), which was also dismissed, vide order dated 23.01.2024 (Annexure P-12).

4. In the aforementioned circumstances, the petitioner-Mill has filed the instant civil writ petition before this Court for seeking relief(s), as noticed hereinabove.

5. During the course of hearing of the writ petition, a coordinate Bench of this Court passed an order dated 02.02.2024, the relevant extracts of which read as under :-

“6. As per impugned orders, the petitioners have violated terms and conditions of the policy and besides blacklisting, they have been directed to deliver entire stock lying in their premises. If, the entire stock, without being processed, is delivered to the State agencies, it would amount to dismissal of the petition and this is also undisputed fact that the State ultimately has to get the paddy processed. In case, entire stock of paddy is returned back to the State, the same would be delivered to another rice miller for further processing. To maintain balance, equity and protect interest of both sides, this Court is of the considered opinion that it would be in the interest of justice and fitness of things if the petitioner(s) are permitted to process 10,000 quintals paddy out of delivered paddy. The petitioner(s) shall return back remaining stock within three days. The respondent would be at liberty to lift paddy over and above 10,000 quintals which is lying in the premises of the petitioner(s). The petitioner(s) shall cooperate in lifting of the stock and if they do not cooperate, it would amount to contempt of this Court. The petitioner(s) are at liberty to process and sell private paddy but they would not mix private paddy with the Government paddy.

7. The petitioner(s) shall process aforesaid 10,000 quintals paddy and deliver rice before 31.03.2024.

8. The Food Corporation of India shall not refuse rice processed by the petitioner(s) on account of the impugned orders or pendency of these writ petitions.

9. It is hereby made clear that above interim arrangement has been made in view of peculiar facts and circumstances of these cases.

10. Adjourned to 11.03.2024.”

5.1 Keeping in view the above extracted order dated 02.02.2024, learned senior counsel for petitioner-Mill has restricted his claim only as regards order, whereby the petitioner-Mill has been blacklisted for a period of three years. It is submitted that the petitioner-Mill has been in the business of milling of paddy for the last many years and in the past also, the petitioner-Mill has been allocated to various procurement agencies for the custom milling of paddy, whereupon the petitioner-Mill has completed the job without there being any single default on its part. It is further submitted that the order of blacklisting has serious consequences as regards right of petitioner-Mill to carry on its trade/profession. It is contended that before passing the order for blacklisting, the petitioner-Mill had been issued show cause notices dated 09.11.2023 (Annexure P-6) and 15.11.2023 (Annexure P-7), which do not contain the details of penalty/action, which was proposed to be taken against the petitioner-Mill. It is next submitted that the order of blacklisting for a period of three years was passed way back on 17.11.2023 i.e. more than 1½ year ago and the petitioner-Mill has already suffered during this period. Accordingly, it is prayed that order dated 17.11.2023 (Annexure P-9) and also subsequent orders, passed by

appellate authorities, i.e. dated 13.12.2023 (Annexure P-11) and 23.01.2024 (Annexure P-12), be set aside to the limited extent, whereby the petitioner-Mill has been blacklisted for a period of three years.

6. Per contra, learned State counsel as well as learned counsel appearing for respondent No. 5 (MARKFED) have opposed the submissions made on behalf of the petitioner-Mill. It is submitted that during the surprise checking of the petitioner-Mill on 29.10.2023, the inspecting team had found 18474 bags of paddy over and above the custom milling paddy and approximately 1780 quintals in the shape of a heap within the mill premises of the petitioner, which was in violation of the provisions contained in Clause 13 read with Clause 17 (b) of Custom Milling Policy and that same was an event of blacklisting under Clause 9 a (v) and Clause 9 a (viii) of Custom Milling Policy. Accordingly, it is submitted that there is no illegality in the orders passed by the authorities, therefore, prayer for dismissal of the instant civil writ petition has been made.

7. Heard.

8. As regards the contention of the petitioner-Mill that the order directing blacklisting of the petitioner-Mill for a period of three years is bad in the eye of law inasmuch as that before passing the said order, show cause notices issued to the petitioner-Mill did not contain details of the penalty/action, which was proposed to be taken against the petitioner-Mill; suffice it to say that as regards contents of the show cause notices is concerned, the position has been settled by Hon'ble the Supreme Court of India in the case of ***Gorkha Security Services Versus***

Govt. of NCT of Delhi and others, 2015 (7) RCR (Civil) 166, by observing as under :-

“20. To put it otherwise, we are of the opinion that in order fulfil the requirements of principles of natural justice, a show cause notice should meet the following two requirements viz:

i. The material/grounds to be stated which according to the Department necessitates an action;

ii. Particular penalty/action which is proposed to be taken. It is this second requirement which the High Court has failed to omit.

We may hasten to add that even if it is not specifically mentioned in the show cause notice but it can clearly and safely be discerned from the reading thereof, that would be sufficient to meet this requirement.”

9. Coming to the case in hand, for the crop year 2023-24, the petitioner-Mill was allocated to MARKFED (respondent No. 5), in terms of Punjab Custom Milling Policy for Kharif 2023-24 (Annexure P-1), whereupon an agreement dated 21.09.2023 (Annexure P-3) was executed between petitioner-Mill and procurement agency.

9.1 Here, it would be apposite to refer to Clause 13 (e), (f), (g); Clause 17 (a), (b); Clause 9 a (v) and Clause 9 a (viii) of Custom Milling Policy, which read as under :-

“13. STORAGE OF PADDY AT THE PREMISES OF THE MILL(S):

a to d xxxxx xxxxx xxxxx

e. The miller shall not mix any other paddy with Custom milling paddy lying in his premises. The custom milling stocks must be scientifically stacked in a countable manner and kept separate by well-defined partitions/boundaries/ fencings etc. All such custom milling stocks shall be subject to Physical

Verification/Inspection/determining age of rice by the officials/officers of the concerned agencies, at any time. The miller shall provide suitable access to the entire paddy stock at the time of PV/Inspection. If such an access is not given by the miller shall after being given a written notice of blacklisting; be blacklisted for three years and the paddy stored at his mill premises shall be shifted at his risk and cost.

f. Miller shall be responsible for the safe custody of quantity and quality of the paddy stored in his mill premises.

g. On receipt of the entire paddy, each miller shall prepare, in triplicate, a pictorial chart/sketch depicting the position of the stacks, stack number and the number of bags in each stack. He shall retain the first copy in his mill premises, Second copy shall be provided to the inspector in-charge of the concerned agency and the third copy shall sent to the office of the DM of the concerned procurement agency, to whom the mill/miller has been allotted. The scanned copy of the same shall be uploaded by every DM of the concerned SPA on <https://anaajkharid.in> portal.”

“17. PHYSICAL VERIFICATION (PV) OF PADDY:

a. Initial storage of paddy within a mill shall be video graphed and the photos of boundary wall, premises, rice room, machinery and the stored paddy shall also be clicked. Both the above i.e., video file and photos shall be uploaded on <https://anaajkharid.in> portal and also stored in the office of PV conducting officer/official and office of the concerned DM. The storage shall also be video graphed and clicked, when the entire storage of paddy is completed in the similar manner as described above. Subsequently, all the fortnightly physical verifications shall also be video graphed and clicked in the same manner. The Custodian Inspector or equivalent official of

the concerned agency shall ensure that the above exercise is carried out from time to time.

b. First physical verification of stock in an allotted mill will be carried out within 10 days of start of storage of paddy. If a miller intends to store own privately purchased paddy/rice in his mill, he should not only declare the same on <https://anaajkharid.in> portal but also store and mark it separately from the CMR paddy. The paddy lifted from any other mandi/district against RO i.e. apart from Free Paddy allocated to the miller, shall also be stored separately. All the paddy stocks fee, RO, privately purchased shall also be separately entered on <https://anaajkharid.in> portal on the same day on which it is stored. Every miller shall also file a daily return of his private purchase along with all the sale bills/invoices/transportation proof and proof of deposit of requisite market fee, RDF, etc. on <https://anaajkharid.in> otherwise, such unaccounted paddy/rice so found in mill premises shall invite penal action including cancellation and blacklisting of the mill. If any of its owner/partner/director/ member/trustee/lessor is also an owner/partner/director/ member/trustee/lessee/lessor of another mill, that mill will also be blacklisted.

Further, such miller shall ensure that his own privately purchased rice is a genuine trade commodity (that it is not diverted from the NFSA/other PDS (Public Distribution System)/ welfare Schemes), otherwise criminal proceedings under relevant section of IPC (Indian Penal Code) and ECA (Essential Commodities Act) shall be initiated against the mill owner(s)/ partner(s)/manager(s)/ trustee(s)/lessee. It is clarified that compounding of such unaccounted private purchase by Punjab Mandi Board (PSAMB), shall not absolve him of criminal proceedings.”

“9. EVENTS OF BLACKLISTING :

a. The following act, actions and/or events are prohibited and the commission/omission of such act, as the case may be, by a miller shall constitute a reason for blacklisting, for a period fo three eyars of such miller.

These are :

xxxxx xxxxx xxxxx

v. Undeclared storage of paddy/rice/broken rice/nakku etc. in the mill premises.

xxxxx xxxxx xxxxx

viii. Any malpractices resorted to by the miller may result in blacklisting.”

9.2 A perusal of above extracted clauses would clearly indicate that undeclared storage of paddy in the mill premises is an event of blacklisting and also a malpractice resulting in blacklisting.

9.3 Concededly, in the surprise checking of the mill premises of the petitioner on 29.10.2023, the inspecting team had found paddy over and above the custom mill paddy, stored in mill premises of the petitioner, whereupon initially an order dated 29.10.2023 (Annexure-3) was passed by respondent No. 3 (District Allotment Committee), whereby the petitioner-Mill was blacklisted for a period of three years, however, upon a challenge being made by the petitioner-Mill to the said order dated 29.10.2023 (Annexure P-3) by filing a civil writ petition (CWP-25184-2023), this Court, vide order dated 08.11.2023 (Annexure P-5), had set aside the order dated 29.10.2023 (Annexure P-3), primarily on the ground that no show cause notice was issued to the petitioner-Mill before passing the order of blacklisting the petitioner-Mill for a period of three years, however, respondent-Department was granted liberty to pass a fresh order after issuing show cause notice and after

granting an opportunity of personal hearing to the petitioner-Mill.

Thereafter, show cause notice dated 09.11.2023 (Annexure P-6) was issued, wherein it was clearly intimated that the petitioner-Mill had violated Clause 9 a (v) and Clause 9 a (viii) of Custom Milling Policy, which relate to the events of blacklisting.

10. Considering the aforementioned peculiar facts and circumstances, it cannot be accepted that the petitioner-Mill was not aware of the particular penalty/action, which was proposed to be taken against it. The show cause notice dated 09.11.2023 (Annexure P-6) has clearly stated that the petitioner-Mill had violated Clause 9 a (v) and Clause 9 a (viii) of Custom Milling Policy, which are infact events of blacklisting.

10.1 In this view of the matter, the plea of the petitioner-Mill that show cause notice did not contain the particular penalty/action, which was proposed to be taken against it, is found to be without any substance and same is accordingly rejected.

11. Now, coming to second contention as regards blacklisting of the petitioner-Mill for a period of three years is concerned, it is noticeable that in the surprise checking of petitioner's premises on 29.10.2023, the inspecting team had found excess paddy stored in the mill premises of the petitioner over and above the custom milling paddy, which was contrary to Clause 13 and Clause 17 of Custom Milling Policy (as extracted above) and clearly constitute events of blacklisting in terms of Clause 9 a (v) and Clause 9 a (viii) of Custom Milling Policy.

11.1 Since the petitioner-Mill had violated the provisions, contained in Custom Milling Policy, accordingly, impugned orders, blacklisting the petitioner-Mill, were passed.

11.2 Even the plea of petitioner-Mill that it had privately purchased the paddy did not find favour with the authorities. Infact, the second appellate authority considered the aforesaid plea and rejected the same, vide impugned order dated 23.01.2024 (Annexure P-12), by observing as under :-

“5. During the course of hearing, the Appellant was asked to produce proof of having conducted private purchase of Paddy from any Mandi yard on or before, the date when the premises of the Mill was searched and unaccounted paddy was detected. He has failed to produce any such proof. The only proof submitted by him is of a much later date and is merely a wash-up to cover up the illegality committed by him.

6. The Appellant also attempted to take cover behind the provisions of The Punjab Agricultural Produce Markets Act, 1961, which allow up to 7 days to make the payment of RDF/MDF to the market committee. However, this argument would have been acceptable had any purchase been registered in the Mandi yard before the raid, following which the period of seven days would have started. However, no such purchase has been registered in any Mandi Yard before the inspection of the premises of the Mill and the same has been admitted by the Appellant.

As such, it is abundantly clear that the unaccounted paddy detected in the premises of the Appellant has been procured illegally at low rates, with the sole intent of recycling it at MSP and earning an illegal profit. Herein, it is reiterated that MSP is a benefit extended by the Central

Government to the farmers to prevent distress, sale of crops and is not meant to be cornered by traders for illegal profits.

7. *Before the start of the Kharif Marketing Season, the Director, Food, Civil Supplies and Consumer Affairs had issued a Public Notice dated 11.09.2023 in leading newspapers, asking the Rice Millers to declare any stock of paddy/rice lying with them before 22.09.2023 at 05.00 pm with concerned DFSC office. It was further informed in that Notice that any stock of unaccounted, paddy/rice detected subsequently shall be assumed to have been acquired for the purpose of illegal recycling of paddy. As such, the miller was fully aware about the intent of the department to take strict action in all cases of unaccounted paddy/rice detected in any Mill. He has therefore committed the offence with full knowledge of the repercussions.*

8. *The order of the First Appellate Authority is a well reasoned order and in accordance with the policy laid down by the department. The Appellant has failed to prove any infirmity in this order and, accordingly the appeal is without merit and dismissed.”*

12. Learned senior counsel for petitioner-Mill has failed to controvert the aforesaid observations made by the second appellate authority and consequently, no fault can be found with the order of blacklisting of the petitioner-Mill.

13. At this stage, learned senior counsel for petitioner-Mill has submitted that since petitioner-Mill has already suffered consequences of blacklisting since passing of the order dated 17.11.2023 (Annexure P-3) till now i.e. for a period of 1½ year, therefore, the period of blacklisting for a period of three years may be modified to the period already gone by.

14. I have considered the aforesaid plea raised by learned senior counsel for petitioner-Mill. It needs no reiteration that while considering

the period of blacklisting, the principle of proportionality has to be considered as the order of blacklisting entails both civil and penal consequences.

14.1 Since the finding relating to the misdemeanor by the petitioner-Mill cannot be faulted and the order of blacklisting of the petitioner-Mill appears to be appropriate, however, period of blacklisting of the petitioner-Mill for three years, in my opinion, is unduly harsh. In my considered view, the ends of justice would be met if the period of blacklisting the petitioner-Mill is reduced from three years to a period of 2½ years from the date of the order of blacklisting i.e. order dated 17.11.2023 (Annexure P-9).

15. No other argument was raised.

16. Keeping in view the above discussion, the aforesaid civil writ petition(s) stand disposed of, in the aforesaid terms.

17. Pending application (s), if any, shall also stand closed.

18. Photocopy of this order be placed on connected case file.

(HARSH BUNGER)
JUDGE

16.10.2025

sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No