

(2011) 07 P&H CK 0168

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 1949 of 1991

M/s O.K. Rice Mills and others

APPELLANT

Vs

The State of Punjab and others

RESPONDENT

Date of Decision: July 5, 2011

Citation: (2011) 164 PLR 178

Hon'ble Judges: Ranjit Singh, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Ranjit Singh, J.

Number of rice mill owners have filed these Civil Writ Petitions Nos.489, 652, 1949, 4126 and 8229 of 1991 to seek direction to the respondents to pay the price of levy rice as was prevalent at the time of taking the rice from the petitioner. Number of rice millers have joined together in each writ petition to espouse this cause, which is common. Accordingly, these writ petitions are being disposed of together through this common order. The facts have been noted from Civil Writ Petition No. 1949 of 1991.

2. The petitioners claim that they are registered under the Punjab General Sales Tax Act, 1948 and under the Central Sales Tax Act and are also the licence holder under the Punjab Food Grains Dealers Licensing and Price Controlled Order, 1978. As the nomenclature would suggest, the petitioners are mainly involved in the business of purchase of paddy from the market in Punjab for the purpose of shelling the same into rice. 75% of the rice after shelling is procured by the respondents in terms of the Punjab Rice Procurement (Levy) Order, 1983.

3. It is averred in the petition that the Government had provided special assistance to the farmers for sale of their paddy to millers before 13.10.1989 at the rate of Rs.10/- per quintal for each variety of paddy and the farmers, who had sold their paddy at the old support price but less than the revised support price, were to be

paid the difference only i.e. the revised support price minus the original price paid to the farmers in the shape of special assistance. This was in order to give special assistance to the farmers in the form of support price for their paddy produce sold by the farmers to the millers or other dealers in the form of a bonus at the rate of Rs. 10/- per quintal. Food Corporation of India issued a telex/telegram on 13.10.1989, fixing the revised rates of rice. Copy of the same is annexed with the petition as Annexure P-1. As per this, the rice procured from the millers upto 12.10.1989 was to remain same as was before 12.10.1989. The rice procured after 13.10.1989 was to have two different prices. The paddy which was procured upto 12.10.1989 and the rice shelled out of the same was to be procured at the old rates and the paddy purchased after 12.10.1989 was to carry different rates. The petitioner would term this to be an arbitrary and, thus, has challenged the same. It is pleaded that the rice, which is procured by the respondents, should carry the same price which is prevalent at the time of procurement of the rice and the respondents can not be allowed to make payment at two different rates, when the commodity is the same. Plea is that there can't be two different rates for the purchase of paddy and so there can not be two different rates for purchase of rice by the respondents.

4. The respondents have filed reply. A preliminary objection is raised on the ground that joint writ petition by different writ petitioners would not be maintainable. Prayer is to dismiss the writ petition on this short ground. As per the respondents, every rice miller is required to sell 75% of the rice manufactured by him at the procurement price fixed by the Government of India from time to time. The support price of the paddy upto 12.10.1989 and the procurement price of the rice upto that date was as under:

Variety:	Support Price of Paddy (per Qtl.)	Procurement price of rice (Per Qtl.)
Common	Rs.175/-	Rs.295-55
Fine	Rs.185/-	Rs.319-90
Superfine	Rs.195/-	Rs.338-90

5. The Government of India through its letter dated 12.10.1989, revised the price of paddy with effect from 13.10.1989 by Rs.10/- in respect of all varieties of paddy as mentioned above. The procurement price of rice was also correspondingly raised. The price of the levy rice shelled out of paddy purchased on or after 13.10.1989 was to be paid at the new rates whereas the price of the levy rice manufactured out of paddy purchased on or before 12.10.1989 was to be paid at the old rates. The difference of Rs.10/-per quintal in the support price of paddy purchased by various agencies, including the millers like the petitioners upto 12.10.1989, was to be paid

by the Food Corporation of India to the farmers and this difference amounting to Rs.28 crores had been paid by the Food Corporation of India to the farmers including in respect of the paddy purchased by the petitioners and others from the farmers upto that date. In this view of the matter, the petitioners certainly were not entitled to revised rate of the levy rice in respect of the rice shelled out of paddy purchased upto 12.10.1989. The respondents, therefore, have justified the issuance of impugned order, Annexure P-1 and this, according to the respondents, is perfectly valid and does not suffer from any arbitrary exercise of powers.

6. As can be noticed, the price of the levy rice would depend upon the support price of the paddy, which is fixed by the Government. The support price of the paddy upto 12.10.1989 has already been noted above and accordingly the procurement price of the rice per quintal was fixed for different varieties of paddy, depending upon the support price thereof. The support price of the paddy was increased by Rs.10/- with effect from 13.10.1989 and accordingly the procurement price of the rice of different varieties was increased with effect from 13.10.1989. It is, thus, obvious that the agencies like the petitioners, were able to purchase different varieties of paddy at a rate which was less by " Rs.10/- per quintal upto 12.10.1989. To off set this loss suffered by the farmers, the Food Corporation of India was made liable to pay the amount of Rs.28 crores to the farmers in respect of the paddy purchased by various agencies including the petitioners from the farmers. The procurement price of rice, if paid at this rate of Rs.10/- prior to 13.10.1989, would have led to unfair and undue advantage to the petitioners, though they were able to purchase the paddy at a lesser rate than the support price as fixed by the Government. The only fair approach would be to permit the petitioners to claim the procurement price of rice at the enhanced rate of Rs.10/- per quintal with effect from 13.10.1989 onwards and not prior thereto. There is no arbitrariness involved in the impugned order. Rather, a very fair and just approach has been adopted by the Government. The price of the levy rice obviously would depend upon the rate at which the petitioners are able to purchase the paddy and once they were able to purchase the paddy at a lesser rate of Rs.10/- per quintal, they certainly can not ask for the enhanced price of levy rice, which was to take effect from 13.10.1989. The price of the rice was enhanced as the procurement of paddy from that day onwards was at the enhanced support price.

7. There is, thus, no merit in these writ petitions and the same are accordingly dismissed.