

(1989) 07 CAL CK 0011

Calcutta High Court

Case No: C.O. No. 5214 (W) of 1989

Sri Mukti Nath Saha

APPELLANT

Vs

The District Controller of Food
and Supplies and Others

RESPONDENT

Date of Decision: July 18, 1989

Acts Referred:

- Rice Milling Industry (Regulation) Act, 1958 - Section 6(3)

Citation: 94 CWN 313

Hon'ble Judges: G.N. Ray, J

Bench: Single Bench

Advocate: Partha Dutta and Rama pati Roy, for the Appellant; Tapas Seal and Ashima Das for State Respondents, for the Respondent

Judgement

G.N. Ray, J.

This writ petition has been moved by the petitioner for the inaction in not granting husking mill licence in favour of the petitioner on the ground that the petitioner was using the same machine both for Chira Mifl and husking Mill and both the said Mills are proposed to be installed in the same room. The learned counsel for the petitioner has contended that such consideration of utilisation of one machine both for Chira Mill and Husking Mill and commissioning of both the Mills in the same premises as a ground for refusing Husking Mill licence was beyond the scope and jurisdiction under the Rice Milling Industry (Regulation) Act, 1958. For the aforesaid purpose, the attention of the Court is drawn to section 6(3) of the Rice-Milling Industry (Regulation) Act, 1958. Sub-section (3) of Section 6 may be set out hereunder for the purpose of appreciating the contention of the learned counsel for the petitioner.

2. Section 6(3) : "On receipt of any such application for the grant of a licence, the licensing officer shall grant the licence on such conditions (including such conditions

as to improvements to existing machinery, replacement of existing machinery and use of improved methods of rice-milling, as may be necessary to eliminate waste, obtain maximum production and improved quality and conditions relating to the polishing of rice, on payment of such fees and on the deposit of such sum, if any, as security for the due performance of the conditions as may be prescribed."

3. It has been contended by Mr. Dutta that if the running of the said husking mill by the aforesaid machine which is also intended to run the Chira Mill in the same premises does not in any way result in waste or deterioration in the quality and condition relating to the polishing of rice, the licensing authority cannot take into consideration that the same machine is being used for both the purposes and for the same reason they can impose a condition that the machine intended to be used for Chira Mill cannot be used for running the husking mill. I am, however, unable to accept the said contention of the learned counsel for the petitioner. Sub-section (3) clearly lays down that licences can be granted on such condition as may appear to be just and proper and the other conditions are only the reiteration of some of the conditions. It may be noted that u/s 5 of the Rice-Milling Industry (Regulation) Act, 1958 it is the duty of the licensing authority to take into consideration the number of the existing mills in the locality and the production of paddy in the locality for the purpose of determining how many licences for Rice Mills are to be granted in the area. If on such consideration, the licensing authority feels that a licensee for the Husking Mill intends to run by the same motor both the Chira and the Husking Mills at the same premises thereby not utilising the Husking Mill effectively and consequently causing inconvenience to the local consumers of rice, in my opinion the licensing authority of Husking Mill can impose conditions that the Husking Mill should operate without any hindrance and the utilisation of Husking Mill should not be left at the whims caprices of the owner of the Husking Mill and it cannot be said that the said conditions are contrary to the provisions of the Act. It may be noted that the existence of a husking mill becomes a relevant consideration for grant of another husking mill in the locality because u/s 5 of the Rice Milling Industry (Regulation) Act, the requirement of the number of Rice Mills in the locality in the context of yield of paddy in the area under consideration is a relevant consideration. If a licence for husking Mill is granted expressly on condition that the owner of the husking mill will use one motor for running both the mills in the same premises it may be quite likely that the consumers of rice will be placed under the mercy and whim of the owner of the Husking Mill who may choose to run the Chira Mill more frequently and may run the Husking Mill only for a very limited period in a day or for a limited period in some days in a week thereby causing undue hardship to the consumers of rice in the locality. It has already been indicated that although the owner of the Husking Mill in question cannot and will not effectively utilise Husking Mill for the consumers in the locality, the grant of licence of a Husking Mill in his favour may not entitle other candidates to get such licence for Husking Mill because total number of Rice Mills at the locality is controlled by the consideration of the

requirement of number of Rice Mills in a locality in the context of total yield of paddy in the area under question. Accordingly, the licencing authority of the Husking Mill may be justified in refusing to grant licence to the candidate if the licensing authority is satisfied that the candidate will not be able to utilize the Husking Mill effectively for want of separate motor or suitable premises to the prejudice and disadvantage of the consumers of rice in the locality. Such consideration, in my view, cannot be held to be foreign to the scope and ambit of the Rice Milling Industry (Regulation) Act as sought to be contended by Mr. Datta. It, however, appears that only a show cause notice has been issued to the petitioner. The petitioner may show cause and satisfy the concerned authority that the motor, in question can effectively run both the Mills and location of both the Mills in the same room will not cause any prejudice to the consumers in the locality. No interference, therefore, is called for at this stage. The petitioner is given liberty to make proper representation by explaining how and in what manner the petitioner intends to run the proposed Husking Mill so that no prejudice will be caused to the consumers of rice in the locality. If such representation is made to the licensing authority, the licensing authority should consider the same on merits and dispose of the representation within six weeks from the date of receipt of the representation by giving a reasoned order. The writ petition is accordingly disposed of. There will be no order as to costs.