



**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR  
BEFORE**

**HON'BLE SHRI JUSTICE VINAY SARAF**

**WRIT PETITION No. 40416 of 2024**

***M/S DIVYAAHAAR FOODS PVT.LTD***

*Versus*

***THE STATE OF MADHYA PRADESH AND OTHERS***

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**Appearance:**

*Shri Kailash Chandra Ghildiyal, learned Senior Counsel with Shri Manoj Kumar Rajak and Shri Karnik Singh, learned counsel for the petitioner.*

*Shri Amit Mishra, learned Panel Lawyer for the respondent/State.*

*Shri Guru Prasanna Singh Parihar, learned counsel for the respondent no.3, 4, 5, 7 and 8.*

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**Reserved on : 23.01.2025**

**Post for : \_\_.01.2025**

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**ORDER**

The instant writ petition filed under Article 226 of the Constitution of India by the petitioner seeking following reliefs:

*“(i) A writ, order or direction in the nature of mandamus directing the respondent authorities to allow the petitioner miller to lift the paddy for milling for the year 2024-25.*

*(ii) A writ, order or direction in the nature of the mandamus directing the respondent authorities not to cause any obstruction in lifting of the paddy for milling for the year 2024-25 unless and until the respondent no.4 appellate authority resolves the issue of quality of rice of the previous year which is pending for adjudication in a time bound manner.*

*(iii) A writ order or direction in the nature of certiorari quashing the impugned order dated 08.01.2025 (Annexure P-9) as the same is arbitrary and illegal.*

*(iv) Any other appropriate writ order or direction which this Hon'ble Court may deem just and proper in the nature and circumstances of the case."*

2. Heard counsel for the parties for the purpose of final disposal.
3. According to the petitioner M/s Divyaahar Foods Private Limited, the State Government has issued milling policy for providing paddy to Rice Millers on certain conditions and in pursuance to the milling policy of the year 2023-2024, the petitioner applied for registration for milling which was accepted and on 02.02.2024 an agreement was executed with M.P. Civil Supplies Corporation Limited, who provides paddy for milling. In furtherance of the agreement, petitioner performed the milling work and delivered the rice at DEO Warehouse, which was designated by the Respondent No.3/Corporation and at the time of delivery of the rice,

quality was checked by surveyor and it was found of standard quality and duly mentioned in the acceptance report.

4. As per the petitioner, after depositing the rice in DEO Warehouse located in Gurh, Rewa, the petitioner had no control over the rice. Later on, an investigation team was constituted by Respondent No.3, which inspected the DEO Warehouse on 30.08.2024 and had taken sample of the rice deposited by the petitioner in DEO Warehouse, which was found to be of beyond reasonable level (BRL) i.e. of substandard quality. According to petitioner at the time of inspection conducted by the investigation team, the petitioner was not called for any explanation nor any hearing was provided to the petitioner and directly by letter dated 27.09.2024 issued by General Manager (Milling), the direction was issued to the petitioner to replace the alleged substandard quality rice (BRL) with the rice of standard quality. Thereafter, the petitioner raised objection regarding the investigation, collection of the sample and declaring the rice as substandard quality on the ground that at the time of delivering the rice to warehouse, surveyor checked the same and rice was found to be fair average quality (FAQ), therefore, no liability can be extended to the petitioner for replacing the rice. As per the petitioner, the responsibility of the miller was to maintain and protect the quality of the rice till the stock is handed over to warehouse and thereafter the miller is

not responsible for maintaining the quality of the rice after the stage of stacking. The petitioner filed an appeal in terms of agreement before the Managing Director of the Respondent No.3/Corporation assailing the communication dated 27.09.2024, which is still pending.

5. Thereafter, petitioner applied for the season 2024-2025 and entered into a fresh agreement for the year 2024-2025 in pursuance to the milling policy floated by the respondent/Corporation for the year 2024-2025. The petitioner provided bank guarantee of Rs.4,77,000,00/- in favour of the Respondent No.4. A formal agreement was executed between the petitioner and the District Manager, Rewa on 10.12.2024 for providing the lots of paddy to the petitioner for the purpose of milling, however, no paddy was provided to the petitioner for milling. The petitioner raised the issue before the concerned authority and came to know that higher authorities have restrained from providing paddy to the petitioner for the purpose of milling and directions were issued to District Manager to cancel the agreement executed with the petitioner on the ground that the petitioner has failed to replace the BRL rice with FAQ as demanded by the Corporation by communication dated 27.09.2024. Assailing the same, the petitioner has approached this Court seeking directions to the respondents/authorities to allow the petitioner to lift paddy for the purpose of milling and for not causing any obstruction in lifting the paddy

and insisting upon the replacement of the rice in furtherance of the communication dated 27.09.2024 until the disposal of the appeal preferred by the petitioner before the appellate authority.

6. During the pendency of the petition, the respondents cancelled the agreement on 08.01.2025 on the ground that as the material supplied by the petitioner in the last year was found BRL and the petitioner has not replaced the material as per the terms of the policy and agreement, consequently, the petitioner is not entitled to carry out the milling work in the year 2024-2025. The petitioner was informed to take back his security deposit from the Respondent No.8.

7. Petitioner moved an I.A.No.332/2025 seeking amendment in the writ petition, which was allowed by this Court and petitioner was permitted to amend the petition. By the amendment, petitioner assailed the order dated 08.01.2025, by which the agreement was cancelled on various grounds and sought the relief of quashment of the cancellation order.

8. Respondent Nos. 3, 4, 5, 7 and 8 submitted the common reply whereby the action of the respondent no.8 was justified. It is submitted by the respondent/Corporation that the paddy was provided to the petitioner for the purpose of milling and after completing the milling work, the petitioner supplied the rice which was found substandard i.e. BRL

therefore, the communication was issued on 27.09.2024 to the petitioner to replace the rice by good quality material in furtherance of the Clause 10.11 of the milling policy of the year 2023-2024. However, petitioner failed to comply with the communication, therefore, the petitioner is not entitled to lift further material for the purpose of milling as per the policy. As per Corporation, petitioner was under obligation to supply the rice of standard quality, but the petitioner failed to supply the same and material supplied by the petitioner was found of BRL quality, therefore, the petitioner was not eligible to enter into the fresh agreement 2024-2025 and the agreement executed with the petitioner was liable to be cancelled as the same was executed de hors the policy. Petitioner has already filed an appeal as per Clause 13 of the agreement, which will be decided by the appellate authority in accordance with law and in this way, the petitioner has already availed the available alternate remedy, therefore, the present petition is liable to be dismissed.

9. Additional reply has been filed by the Corporation, wherein the Corporation has stated that the District Manager of the Corporation erroneously entered into an agreement with the petitioner for 2024-2025 though the petitioner was not eligible for the same and when the matter came to the knowledge of the higher officers, directions were issued to District Manager, Rewa to cancel the agreement executed with petitioner,

as also the agreements executed with other defaulter millers. As per respondent, huge quantity of 21260 bags of rice was found of BRL quality therefore, until and unless the petitioner replaces the same with FAQ, petitioner cannot be permitted to lift further material. The Corporation prays for dismissal of the petition.

10. So far as the cancellation of the agreement executed for the year 2024-2025, the learned counsel for the Corporation submits that petitioner is having alternate efficacious remedy of appeal as per the terms of the contract therefore, no relief can be granted to the petitioner in the present petition.

11. Learned Panel Lawyer for the respondent/State has not filed any reply in the matter and supported the reply submitted by the Corporation.

12. The following facts are admitted in the present case;

(i) Petitioner, Company entered into an agreement with the Respondent No.3, Corporation for the purpose of milling of paddy, for the year 2023-2024 on 02.02.2024, whereby it was decided that the Corporation will provide paddy to the petitioner and after milling FAQ rice will be deposited by the petitioner with DEO Warehouse and the CMR (custom milled rice) should not be of BRL quality.

(ii) Petitioner lifted paddy and deposited rice with the designated DEO Warehouse and at the time of deposition of rice, the quality was checked by surveyor who found rice of FAQ. An investigation team was constituted by the Corporation, which inspected the DEO Warehouse on 30.08.2024 and sample of rice supplied by the petitioner was taken and after examination rice was found to be BRL i.e. substandard quality. As per terms no.2(V)(1) and 9 (II)9 of the agreement dated 02.02.2024, miller is under obligation to replace BRL quantity by FAQ at his own expenses. As per terms of the agreement, the communication was issued to the petitioner for replacing the 21,260 bags of rice which was found of BRL quality but the petitioner has not accepted the liability to replace the same and assailed the communication in appeal filed before the Managing Director of the Corporation as per term no.12 of the agreement, which is still pending.

(iii) Fresh policy was issued for the year 2024-2025 and petitioner registered itself upon the portal of the Corporation for the purpose of fresh milling contract for the year 2024-2025, which was executed between the



petitioner and Corporation on 10.12.2024. The petitioner supplied the bank guarantee of Rs.4,77,000,00/-. The agreement executed on 10.12.2024 was valid w.e.f. 10.12.2024 to 25.01.2025. Despite the execution of the agreement with the petitioner, the petitioner was not permitted to lift the paddy for the purpose of milling and no paddy was supplied to the petitioner in furtherance of the agreement dated 10.12.2024 on the ground that the petitioner has failed to replace the rice of BRL quality with FAQ. Complaining the same, the petitioner filed the present petition before this Court and during pendency of the petition on 08.01.2025, the agreement executed for the year 2024-2025 was cancelled by the Corporation. Petitioner has not preferred any appeal assailing the order of cancellation dated 08.01.2025 and challenged the same by amending the present petition.

13. In the present matter, the aforesaid facts are admitted and the following question arises for consideration:

*“Whether the action of the Respondent/Corporation for not supplying the paddy to the Petitioner for the purpose of milling despite execution of the agreement on 10.12.2024 was*

*in accordance with the terms of the contract and the prevailing policy of 2024-2025?”*

14. Learned Senior Counsel appearing for the petitioner has pointed out several provisions of the contract, and argued that the Corporation is under obligation to provide the paddy to the miller in furtherance of the agreement and the supply of the paddy for the purpose of milling cannot be withheld upon the allegation that in last season, the petitioner supplied the rice of BRL quality and not replaced upon the demand with the FAQ quality. He further submits that the policy and agreements are separate for both the years and the petitioner has already furnished the bank guarantee of Rs.4,77,00000/- in furtherance of the agreement dated 10.12.2024 to the Corporation, therefore, the action of the Corporation by not supplying the paddy to the petitioner is not only contrary to the provisions of contract but also arbitrary, illegal, incorrect and unjust. He further submits that so far as the demand of replacing of 21260 rice bags of BRL quality is concerned, the issue is pending before the Managing Director in appeal and the same has not attained finality therefore, the same cannot be made basis of depriving the petitioner from fresh supply. As per the petitioner, respondent/Corporation entered into an agreement with the petitioner for the year 2024-2025 even after having the knowledge that petitioner has not complied with the demand dated 27.09.2024 and has

assailed the same in appeal therefore, the Corporation cannot deny to fulfill the obligation under the contract. He further submits that even as per the policy issued for the year 2024-2025, there is no clause to the effect that if miller has failed to replace the rice of BRL quality with FAQ quality, no fresh agreement should be executed. He has pointed out Clause 5.1 of the policy and submits that as per the policy, the petitioner was competent to enter into a fresh agreement. He also submits that the issue of replacing alleged BRL by FAQ is pending before the appellate authority therefore, the same cannot be made basis for the purpose of cancellation of agreement. The action of the respondent by which they cancelled the agreement during the pendency of this petition is highly objectionable, *ex facie* arbitrary, illegal and has been taken with malafide intention to pressurize the petitioner to succumb to the illegal demand of the Corporation.

15. Learned Senior Counsel relied on the judgment delivered by Supreme Court in ***Subodh Kumar Singh Rathour Vs. The Chief Executive Officer & Ors. reported as 2024 SCC Online 1682*** whereby the Apex Court has held that the cancellation of a contract deprives a person by his valuable rights and is a drastic step, often due to significant investment having already made by the parties involved during the subsistence of the contract. The public authorities should be circumspect

in disturbing or wriggling out of its contractual obligations through means beyond the terms of the contract in exercise of their executive powers and if the Court is of the view that powers have been exercised arbitrarily by public authority in canceling the contract, which was issued in favour of the private entity, the interference under Article 226 of the Constitution of India is permissible. The relevant paras of the judgment are as follows:

*“58. Thus, the demarcation between a private law element and public law element in the context of contractual disputes if any, may be assessed by ascertaining whether the dispute or the controversy pertains to the consensual aspect of the contract or tender in question or not. Judicial review is permissible to prevent arbitrariness of public authorities and to ensure that they do not exceed or abuse their powers in contractual transactions and requires overseeing the administrative power of public authorities to award or cancel contracts or any of its stipulations.*

*59. Therefore, what can be culled out from the above is that although disputes arising purely out of contracts are not amenable to writ jurisdiction yet keeping in mind the obligation of the State to act fairly and not arbitrarily or capriciously, it is now well settled that when contractual power is being used for public purpose, it is certainly amenable to judicial review.*

*x x x x x*

*65. The meaning and true import of arbitrariness is more easily visualized than precisely stated or defined. The question, whether an impugned action is arbitrary or not, is ultimately to be answered on the facts and in the circumstances of a given case. An obvious test to apply is to see whether there is any discernible principle emerging from the impugned act and if so, does it satisfy the test of reasonableness. Where a mode is prescribed for doing an act and there is no impediment in following that procedure, the performance of the act otherwise and in a manner which does not disclose any discernible principle which is reasonable, may itself attract the vice of arbitrariness. Every State action must be informed by reason*

*and it follows that an act uninformed by reason, is arbitrary. Rule of law contemplates governance by laws and not by humour, whims or caprices of the men to whom the governance is entrusted for the time being. It is trite that be you ever so high, the laws are above you.*

x x x x x x

*69. To ascertain whether an act is arbitrary or not, the court must carefully attend to the facts and the circumstances of the case. It should find out whether the impugned decision is based on any principle. If not, it may unerringly point to arbitrariness. If the act betrays caprice or the mere exhibition of the whim of the authority it would sufficiently bear the insignia of arbitrariness. In this regard supporting an order with a rationale which in the circumstances is found to be reasonable will go a long way to repel a challenge to State action. No doubt the reasons need not in every case be part of the order as such. If there is absence of good faith and the action is actuated with an oblique motive, it could be characterised as being arbitrary. A total non-application of mind without due regard to the rights of the parties and public interest may be a clear indicator of arbitrary action.*

*70. One another way, to assess whether an action complained of could be termed as arbitrary is by way of scrutinizing the reasons that have been assigned to such an action. It involves overseeing whether the reasons which have been cited if at all genuinely formed part of the decision-making process or whether they are merely a ruse. All decisions that are taken must earnestly be in lieu of the reasons and considerations that have been assigned to it. The Court must be mindful of the fact that it is not supposed to delve into every minute details of the reasoning assigned, it need not to go into a detailed exercise of assessing the pros and cons of the reasons itself, but should only see whether the reasons were earnest, genuine and had a rationale with the ultimate decision. What is under scrutiny in judicial review of an action is the decision-making process and whether there is any element of arbitrariness or mala fide.”*

16. Learned Senior Counsel further submits that the cancellation of the agreement be quashed and the respondents be directed to comply with the

terms of the contract dated 10.12.2024 by supplying the paddy to the petitioner for the purpose of milling.

17. Learned counsel appearing on behalf of the respondent/Corporation supported the action of the Corporation by referring Clause No.4.3 of the policy and submits that as per the policy, if the miller has failed to replace the material of BRL quality with FAQ, further supply is not permissible to the miller. He further submits that in the present matter, opportunity was granted to the petitioner to replace the material but the petitioner failed to replace the BRL quality rice with FAQ and therefore, the action taken by the Corporation is in accordance with the policy. He further submits that as per the policy, the petitioner was not competent to enter into an agreement for the year 2024-2025 as the petitioner was not entitled to lift paddy for the purpose of milling as per Clause 4.3 of the policy as well as Clause 9 (ii)(9) of the agreement. He submits that the petitioner registered itself on the portal of the Corporation for the purpose of entering into a fresh agreement after knowing the terms and conditions of the policy, the agreement and the petitioner was aware of that in the absence of replacement of the BRL quality of rice by FAQ the petitioner will not be entitled to lift paddy for the purpose of milling and therefore, the petitioner cannot raise any grievance against the Corporation for not supplying the paddy and cancellation of the contract.

18. He further submits that petition is having alternate efficacious remedy of appeal against the cancellation order dated 08.01.2025 as per per Clause 18 and 20 of the agreement and no relief can be granted to the petitioner in writ petition. He further submits that petitioner is a defaulter, who entered into a contract on 02.02.2024 for the purpose of milling of paddy and supply FAQ CMR, but failed to supply the standard quality rice and upon inspection the rice was found of BRL quality therefore, as per terms of the agreement and policy, the communication was issued and opportunity was granted to the petitioner to replace the material with standard quality rice however the petitioner instead of complying with the communication challenged the same before the appellate authority and registered itself again on the portal for the next season in a routine manner and succeed to enter into fresh agreement with the Corporation on 10.12.2024. When this fact came to the knowledge of the higher authorities of the Corporation that the petitioner executed fresh agreement with the Corporation, the same has been cancelled in accordance with law. He further submits that in the present matter, no relief can be granted to the petitioner and petition is liable to be dismissed.

19. Learned P.L. appearing on behalf of the State supported the arguments advanced by the learned counsel for the Corporation and prays for dismissal of the petition.

20. Having heard learned counsel for the parties and having gone through the material on record, it appears that upon inviting online applications for registration of millers for the purpose of milling of paddy, petitioner applied and registered itself for the year 2023-2024 and an agreement was executed on 02.02.2024. However, the allegation against the petitioner is that CMR (custom milled rice) deposited by the petitioner with designated warehouse was upon inspection found BRL quality and, consequently, as per the terms of the policy and contract dated 02.02.2024, the petitioner was asked to replace 21260 bags of BRL quality with FAQ (fair average quality). The relevant provisions of policy enabling the Corporation to make the demand of FAQ reads as under:

**“14.** चावल के बी.आर.एल. होने के संबंध में दाण्डिक प्रावधान :-

**14.1** चावल के बी.आर.एल. होने पर संबंधित मिलर द्वारा अमानक लॉट को 10 दिवस में बदलकर मानक लॉट जमा करना अनिवार्य है, मिलिंग कार्य को दृष्टिगत रखते हुए मिलर द्वारा 10 दिवस के अंदर कुल अमानक लॉट के 50 प्रतिशत अमानक लॉट अपग्रेड करने पर अपग्रेड की गयी मात्रा की 50 प्रतिशत धान के उठाव करने की अनुमति होगी। यदि शेष 50 प्रतिशत अमानक लॉट 10 दिवस में नहीं बदला जाता है, तो यथावत धान परिदान में रोक रहेगी।

**14.2** चावल के बी.आर.एल. होने पर राज्य की मिलिंग राशि एवं अपग्रेडेशन राशि की 04 गुना पेनाल्टी मिलर द्वारा देय होगी। इसकी गणना मिलर द्वारा कॉपरेशन को सीएमआर चावल जमा करने के उपरांत किसी भी स्तर पर किये गये गुणवत्ता निरीक्षण में बीआरएल



पाये जाने पर ही की जायेगी। भंडारण केंद्र में मिलर द्वारा सीएमआर जमा किये जाने हेतु लाये जाने पर गुणवत्ता परीक्षण में पाये गये ऐसे बीआरएल स्कंध जो कि गोदाम में जमा किये जाने के पूर्व ही मिलर को वापस किया गया हो, इसे गणना में शामिल नहीं किया जायें।

**14.3** मिलर द्वारा पूरे खरीफ विपणन वर्ष 2023-24 में मिलिंग हेतु किये गये कुल अनुबंधों के विरुद्ध मिलिंग उपरांत प्रदायित कुल सीएमआर की मात्रा का 10 प्रतिशत अथवा अधिक सीएमआर चावल के रिजेक्ट हो जाने/सीएमआर चावल के अपग्रेड करने की स्थिति में, मिलर को नोटिस दिया जाकर चालू खरीफ सीजन के लिये ब्लेक लिस्ट घोषित कर अनुबंध निरस्त किया जायेगा। इसके साथ-साथ कंडिका 14.2 के अंतर्गत कार्यवाही समानांतर रूप से की जायेगी।

The relevant clauses of agreement dated 02.02.2024 reads as under:

**2.(V)** द्वितीय पक्षकार को भारत सरकार खाद्य मंत्रालय द्वारा पत्र क्रमांक F.No. 40-4/2020/QCC नई दिल्ली दिनांक 16.07.20214 से सी.एम.आर. के संबंध में जारी SOP (Standard Operating Procedure) का अनुपालन करना अनिवार्य होगा, जिसके अनुसार BRL एवं Beyond FSSA CMR के निराकरण में निम्नानुसार कार्यवाही की जाएगी। :-

**2.(V)1** किसी भी स्तर पर निरीक्षण में सीएमआर के बीआरएल पाए जाने पर द्वितीय पक्षकार को बीआरएल चावल की मात्रा को अपग्रेड/रिप्लेस किये जाने हेतु नोटिस जारी किया जाएगा। द्वितीय पक्षकार द्वारा बीआरएल मात्रा को एफएक्यू चावल से रिप्लेस अपने हर्जे खर्चे पर किया जाएगा।

X X X X X X

**9(II).** द्वितीय पक्षकार को प्रदाय धान के विरुद्ध सीएमआर जमा न करने के निम्न गुणवत्ता का सीएमआर जमा करने पर निम्नानुसार शास्ति अधिरोपित की जायेगी.

क्र.	विवरण	शास्ति का स्वरूप
1	सीएमआर के परीक्षण उपरांत पाए गए बीआरएल चावल की वृचना मिलर्स को प्राप्त होने की दिनांक से 15 दिसव में मानक स्तर का चावल जमा न करने पर	रु. 2 प्रति क्विंटल प्रतिदिन एवं 1 माह में मानक स्तर का चावल जमा करने पर जमा प्रतिभूति राशि राजसात।

2	निर्धारित आउट टर्न रेश्यो अनुसार चावल जमा न करना	कम जमा की गई मात्रा की आर्थिक लागत से 125 % राशि की वसूली
3	एक सीजन में मिलसे द्वारा किए गए कुल अनुबंध में से दो बार अनुबंध अनुसार मिलिंग न करना	वर्तमान खरीफ मौसम के लिए मिलर्स को ब्लेक लिस्टेड
4	मिलर्स द्वारा उपार्जन केन्द्र/गोदाम से धान प्राप्ति दिनांक से 25 दिवस की अवधि में MPSCSC/FCI के गोदाम में चावल जमा न करना।	कम जमा मात्रा पर रु. 2 प्रति क्विंटल/दिन की पेनाल्टी।
5	मिलर्स परिसर के सत्यापन में प्रदाय धान या उससे निर्मित चावल की मात्रा कम पाए जाने पर	धान/चावल की कम पाई र्ग मात्रा की आर्थिक लागत का 5 गुणा राशि वसूली।
6	अन्तर्जिला मिलिंग की स्वीकृति उपरांत 15 दिवस में मिलर्स द्वारा अनुबंध न करना	मिलिंग अनुमति की स्वीकृति स्वमेव निरस्त।
7	अन्तर्जिला चावल परिवहन की स्वीकृति उपरांत 15 दिवस में संबंधित जिले में चावल जमा न करना	स्वीकृति स्वमेव निरस्त एवं रु. 2 प्रति क्विंटल/दिन की पेनाल्टी।
8	मिलर्स की असावधानी, दुष्कृत्य, शासकीय क्षति करने पर राशि की वसूली	क्षति राशि की वसूली।
9	<b>बीआरएल चावल 15 दिवस में बदलकर मानक चावल उपलब्ध न करने पर</b>	<b>मानक चावल जमा न करने की अवधि तक धान परिदान पर रोक।</b>
10	गोदाम में भंडारण उपरांत परीक्षण में बीआरएल चावल पाए जाने पर	बीआरएल चावल मात्रा पर देय मिलिंग एवं प्रोत्साहन राशि की 4 गुणा राशि वसूली।
11	एक उपार्जन सीजन में गोदाम में जमा चावल में से लगातार 3 मिलिंग अनुबंध अंतर्गत बीआरएल चावल पाए जाने पर	मिलर्स को एक वर्ष के लिए ब्लेक लिस्टेड, आगामी अनुबंध निरस्त एवं बीआरएल चावल मात्रा पर देय मिलिंग एवं प्रोत्साहन राशि की 4 गुणा राशि वसूली।
12	Beyond FSSAI लिमिट में चावल पाए जाने पर	3 वर्ष के लिये ब्लेकलिस्टेड एवं स्टॉक मिलर को वापस नहीं किया जायेगा।

X X X X X X

**9(IV)-** निरीक्षण में सीएमआर के बीआरएल पाए जाने पर द्वितीय पक्षकार को बीआरएल चावल की मात्रा को रिप्लेस किये जाने हेतु

नोटिस जारी किया जाएगा। द्वितीय पक्षकार द्वारा बीआरएल मात्रा को एफएक्यू चावल से रिप्लेस अपने व्यय पर किया जाना होगा।”

21. When the Corporation came to know that the CMR supplied by the petitioner was of BRL quality, communication was issued on 27.09.2024 for the purpose of upgradation of the supplied CMR. As the same was not acceptable to the petitioner, the petitioner assailed that communication before the Managing Director by preferring the appeal, which is pending. Thereafter, the petitioner registered itself for the purpose of milling of paddy for the year 2024-2025 and an agreement was executed under new policy between petitioner and respondent/Corporation on 10.12.2024 w.e.f. 10.12.2024 to 25.01.2025 which was cancelled by respondent on 08.01.2025 during the pendency of the present petition on the ground that as the petitioner failed to replace BRL quality of CMR with FAQ, the petitioner was entitled to enter into any agreement with respondent.

22. After considering the provisions of policy of 2023-2024, 2024-2025 and the terms of agreements dated 02.02.2024 and 10.12.2024, it appears that there is no clause which prohibits the execution of fresh agreement for fresh period with the miller who has not replaced the CMR of BRL quality with FAQ in the previous season.. Consequently, the contention of the respondent/Corporation that petitioner was not entitled

for the execution of fresh agreement for the year 2024-2025, is not acceptable.

23. Learned counsel for the respondents failed to point out any clause from the policy or agreement which stipulates that in case of failure of the miller to replace CMR of BRL quality with FAQ, no fresh agreement can be executed for the purpose of next season. At the same time, learned counsel for the respondents failed to point out any clause from the policy of 2024-2025 as well as agreement, which empowers the Corporation to cancel or terminate the agreement unilaterally. In the absence of any specific provisions in the contract or policy, the agreement which was executed after raising the demand for replacing of BRL quality of CMR with FAQ cannot be cancelled on the ground that the demand was not fulfilled by the miller. Consequently, the action of the respondent to cancel the agreement during the pendency of the petition appears to be an attempt to wriggle out from its contractual obligation through means beyond the terms of contract. Though the appeal is provided as per Clause 12 of the contract, but when the action of the respondent/Corporation appears to be arbitrary, the same can be quashed by exercising the powers under Article 226 of the Constitution of India as held by the Apex Court in the matter of *Subodh Kumar Rathour (supra)*.

24. The petitioner moved the present petition seeking directions to the respondent/Corporation to supply paddy in furtherance of order dated 10.12.2024 for the purpose of milling, but during pendency of the petition, the respondent/Corporation by communication dated 08.01.2025 cancelled the contract itself. It appears to be an attempt to avoid the liability under the contract and therefore, the contract is deemed to be remained in force up to the period for which it was executed i.e. 25.01.2025.

25. The crucial issue involved in the present case is whether the Corporation can deny the supply of paddy to the petitioner on the ground that the petitioner has failed to replace the CMR of BRL quality with the FAQ. For the purpose of determining the said issue, the terms of the policy for the year 2023-2024 are seen. Clause 14.1 of the policy as reproduced herein above stipulates that if the supply of CMR was found to be of BRL quality, the miller is under obligation to replace the same lot within a period of ten days and if it upgrades 50% of the BRL quality within ten days, it will be entitled to lift 50% of the paddy for the purpose of milling and if it fails to upgrade the BRL quality with FAQ, the supply of paddy will be stopped. Meaning thereby, if CMR supplied by the miller is found to be of BRL quality, the miller has to upgrade the same

into FAQ quality by replacing the lot and if the miller fails to do so, no fresh paddy will be supplied to miller for the purpose of milling.

26. Even in the contract dated 02.02.2024 the term no.2(v)(1) stipulates that miller is under obligation to upgrade or replace the BRL quality into FAQ quality at his own cost. Further term no.9(II) (9) provides that if the miller fails to replace the CMR of BRL quality within 15 days, the further supply of paddy shall be stopped. Meaning thereby even as per the policy of the 2023-2024 and the terms of agreement, the petitioner is not entitled to get further paddy for the purpose of milling in case it fails to replace the BRL quality by FAQ. When the demand was issued to the petitioner on 27.09.2024 for replacing the 21260 bags of BRL quality by FAQ, the petitioner had two options; **(i)**- to challenge the demand by preferring an appeal before the Managing Director and **(ii)**- to replace the BRL quality CMR with FAQ. As the petitioner has chosen to prefer the appeal as per the terms of the policy and agreement, the petitioner is not entitled to lift further paddy for the purpose of milling until and unless the demand is set aside in appeal.

27. As observed herein above that there was no impediment for execution of the fresh agreement, the petitioner entered into fresh agreement with the Corporation for the year 2024-2025 for the period 10.12.2024 to 25.1.2025, however, the policy issued in the year 2024-

2025 also provides the similar condition that if a miller has failed to replace the BRL quality CMR with FAQ, it will not be eligible for fresh paddy. The relevant provision reads as under:

“4.3 विगत खरीफ विपणन वर्षों में मिलर द्वारा कस्टम मिलिंग से चावल परिदान उपरांत परीक्षण में BRL पाए गए चावल को अपग्रेड कर मानक गुणवत्ता चावल का परिदान न किया गया हो।

28. The agreement dated 10.12.2024 was executed under the policy of the year 2024-2025 and consequently terms of the policy are binding on both the parties which provides that miller is not competent to mill the paddy if in the last year, the CMR supplied by the miller was found of BRL quality and the same was not upgraded by the miller in FAQ. Similar provisions are there in Clause 13.6, 13.7, 13.9 and 14.1. Clause 14.1 reads as under:

“14.1 चावल के बी.आर.एल. होने पर संबंधित मिलर द्वारा अमानक लॉट को 10 दिवस में बदलकर मानक लॉट जमा करना अनिवार्य है, मानक लॉट जमा किये जाने तक धान परिदान में रोक रहेगी।”

29. In the agreement dated 10.12.2024, the similar Clause 2(v)(i) is available which creates a liability upon the miller to replace the BRL quality CMR with FAQ. Clause 9(ii)9 and 9(iv) also provides for replacing CMR and stopping the further supply in case of failure to replace the material by FAQ.

30. In view of the above conspectus, it appears that there was no impediment in execution of the fresh agreement for the year 2024-2025, but at the same time, the clauses of the policy as well as agreement prohibits for fresh supply of paddy to a miller, who fails to replace the BRL quality with FAQ and therefore, the respondents have not committed any error, illegality or irregularity in not supplying the fresh paddy to the petitioner for milling purpose.

31. Learned Senior Counsel appearing on behalf of the petitioner has vehemently argued that when the petitioner assails the communicated dated 27.09.2024 before the appellate authority and as per the policy fresh paddy could not be supplied to the petitioner, why the respondents entered into the fresh contract with the petitioner. It appears that for the purpose of execution of contract, the miller has to register itself on the portal of the Corporation and upon registration on the portal the proposal may be accepted by the Corporation for the purpose of execution of agreement subject to the terms and conditions of the policy. The petitioner itself applied on the portal for registration and execution of fresh agreement for the year 2024-2025 and therefore, the agreement was executed. Now the petitioner cannot take any advantage of execution of agreement as the provisions of policy were in the knowledge of petitioner, therefore, the petitioner cannot take the defense that the



petitioner was not aware that despite execution of agreement, the paddy will not be supplied to him. The agreement was executed for the period from 10.12.2024 to 25.01.2025. It may be understood that the same was executed with a hope that demand raised by the Corporation on 27.09.2024 will be turned down by the appellate authority and petitioner will be able to lift further quantity of paddy for the purpose of milling, however, the appeal is still pending and the period of contract has also expired. Under these circumstances, petitioner cannot take any benefit of execution of agreement.

32. Consequently, the present petition is **disposed of** with the following directions:

(I) The agreement executed between the petitioner and respondent/Corporation on 10.12.2024 for the year 2024-2025 was valid w.e.f. 10.12.2024 to 25.01.2025 as there was no impediment in the policy or agreement to execute any fresh agreement.

(II) The action of the respondent/Corporation cancelling the agreement dated 10.12.2024 on 08.01.2025 is arbitrary and illegal and consequently, the same is hereby set aside and the agreement deemed to be in force from 10.12.2024 to 25.01.2025.

(III) The petitioner was not entitled to lift the further stock of paddy for the purpose of milling without replacing the alleged 21260 bags of BRL quality with FAQ or quashment of demand by appellate authority.

(IV) The Corporation has not committed any error in not supplying the fresh paddy to the petitioner as the appeal is still pending with the appellate authority.

(V) This Court has not expressed any opinion on the issue of BRL quality and the same shall be considered and decided by the appellate authority in accordance with applicable terms of the policy and contract.

(VI) As the period of contract dated 10.12.2024 has already been over, no further relief can be granted to the petitioner, however, the petitioner will be entitled to take appropriate action for claiming damages before appropriate forum.

(VII) There shall be no order as to costs.

(VINAY SARAF)  
JUDGE

P/-