

HIGH COURT OF TRIPURA
AGARTALA

WA NO.162 OF 2023

Food Corporation of India and ors.

.....Appellant (s)

Versus

Shri Abhijit Paul.

.....Respondent(s)

For the Appellant(s)	: Mr. B.K. Singh, Advocate. Mr. R.G. Chakraborty, Advocate. Ms. S. Chakraborty, Advocate.
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For the Respondent(s)	: Mr. Raju Datta, Advocate. Mr. K. Pandey, Advocate.
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Date of hearing and delivery of Judgment & Order	: 22/04/2024
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Whether fit for reporting	: YES/NO.
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HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT

J U D G M E N T & O R D E R (O R A L)

T. AMARNATH GOUD(J)

This present writ appeal has been filed challenging the impugned Judgment and Order dated 02.06.2023 passed by the learned Single Judge in WP(C) No.113 of 2021.

2. The brief fact of the case is that the petitioner i.e. the respondent in this writ appeal executed various transportation contracts of carrying food grains/ allied materials within the State of Tripura under the Food Corporation of India

and also executed handling contract for loading/unloading of food grains/sugar/allied materials within the State of Tripura. Based on the tender submitted by the petitioner in response to NIT issued by the respondents-appellant herien, the petitioner was awarded handling contract regularly for loading/unloading and handling of food grains /sugar/allied materials at FSD Nandannagar. The petitioner executed the said contract under Work Order No.CONT.9 NEFR/HC.NDN/2012 dated 04.06.2012 issued by the Respondent-appellant No.2 and the contract was completed on 30.06.2014. However, the security deposit of Rs 2,00,000/- was not refunded by the Food Corporation of India(*in short 'FCI'*). The respondents contended that the conduct of the petitioner as transport contractor under the respondents has been highly unsatisfactory and time and again the petitioner has breached the terms of contracts by not placing sufficient trucks at the Railway siding for unloading food grains within free time provided by the Railways for which the answering respondents suffered huge loss towards railway demurrage Charges. However, the learned Single Judge set aside the order dated 08.06.2020 passed by the FCI for rejecting the claim of the petitioner for refund of the security deposit vide Judgment and order dated 02.06.2023 passed in WP (C) No. 113/2021. The Security Deposit has been refunded to the petitioner, however,

being aggrieved with observations/opinion of learned Single judge at paras- 18 to 23 of the aforesaid Judgment and order dated 02.06.2023, the appellants has preferred the present writ Appeal.

3. Heard Mr. B.K. Singh, learned counsel along with Mr. R.G. Chakraborty, learned counsel appearing for the appellant as well as Mr. R. Datta, learned counsel appearing for the petitioner-respondent.

4. Mr. B.K. Singh, learned counsel appearing for the appellants submits that the petitioner did not approach the Grievance Redressal Committee which has been constituted for adjudicating the grievance of the contractors but the petitioner has challenged the speaking order dated 08.06.2020 by filing the writ petition and the same is contrary to the agreement.

5. Heard and perused the evidence on record.

6. Appellant-counsel has urged this Court to expunge the observation made by the learned Single Judge in para-18 of the impugned Judgment that there is no statutory adjudicating body to determine issues relating to grievance, negligence, and poor workmanship attributed to the Contractor. Learned counsel argued that the appellant-Corporation has the said grievance redressal mechanism and as such, the observation of the learned Single Judge is expressly wrong. But it is seen from the record

that the appellant-Corporation herein has not opened their month although on the said issue by way of filing counter or by way of argument. Now the appellants cannot urge this Court to go through the agreement for the first time. In view of the same, this Court feels that the present appeal is liable to be dismissed and the same is ordered. However, liberty is given to the appellants to approach the Court by filing an appropriate application, if so advised.

7. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

B. PALIT, J

T. AMARNATH GOUD, J

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