

IN THE HIGH COURT OF JUDICATURE AT PATNA

Request Case No.12 of 2014

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Sanjay Kumar, son of Geeta Prasad Singh, resident of Village-Mafi, Police Station-Warshliganj, District-Nawada, Proprietor of M/s Dhan Raj Mills Warshaliganj, District-Nawada

.... Petitioner

Versus

1. The Managing Director, Bihar State Food and Supplies Corporation Ltd., Sone Bhawan, Bir Chand Patel Path, Patna.
2. The Deputy Chief Claim, Bihar State Food and Supplies Corporation Ltd., Sone Bhawan, Bir Chand Patel Path, Patna.
3. The District Manager, Bihar State Food and Supplies Corporation, Nawada.
4. The Certificate Officer, Nawada.

.... Respondents

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Appearance :

For the Petitioner : Mr. Jitendra Kumar Roy, Advocate

For Respondent-BSFC : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL ORDER

5 13-03-2015

The petitioner owns a rice mill. He entered into an agreement dated 04.02.2013 with the Bihar State Food and Civil Supplies Corporation-1st respondent herein for custom milling of paddy. The 1st respondent initiated proceedings against the petitioner for recovery of certain amount by taking recourse to the provisions of the Bihar & Orissa Public Demands Recovery Act, 1914. Earlier, the petitioner had approached this Court through a writ petition. Ultimately, he intends to take recourse to Clause 16 of the Agreement, which provides for reference of the dispute to the named arbitrator, namely, the District Collector.

This case is filed with a prayer to refer the matter to the District Magistrate for arbitration under Clause 16 of the Agreement. It is stated that though there is specific direction by

this Court in CWJC No.9993 of 2014 that no coercive steps shall be taken against the petitioner for realization of the dues, the respondents has initiated action for realization of the amount by filing certificate case.

The 1st respondent has filed a detailed counter affidavit, opposing the petition. It is stated that once the recovery proceedings is initiated, there is no need to refer the matter to arbitrator.

Heard Shri Jitendra Kumar Roy, learned counsel for the petitioner and Shri Shailendra Kumar Singh, learned counsel for respondent-Corporation.

Clause 16 of the Agreement dated 4.2.2013 reads as under:

“16. In case of disputes both parties agree to settle the issue(s) on mutual discussion. Failure to reach agreement the matter will be referred to arbitrator. It has been also agreed that the arbitrator will be District Collector of the concerned District whose decision shall be final, concerning the dispute referred to him.”

It is not in dispute that the 1st respondent initiated a proceedings under the Bihar & Orissa Public Demands Recovery Act, 1914 against the petitioner for recovery of certain amounts. However, once the petitioner has disputed his liability

to pay any amount and made a request for reference of the dispute to the arbitrator under Clause 16 of the Agreement, the matter has been referred to the arbitrator. Incidentally, in the instant case, it is a named arbitrator i.e., District Collector. The objection raised by the respondent that the petitioner did not make a formal application for reference of the matter to the arbitrator, cannot be accepted. The reason is that a direction, in this behalf, is contained in the order passed in CWJC No.9133 of 2014.

Therefore, the case is disposed of, directing that the dispute between the petitioner and the respondent, which is referable to the agreement dated 4.2.2013, is referred to the District Collector, Nawada for arbitration in terms of Clause 16 of the Agreement.

The parties shall submit their respective claims/counter claims, as the case may be, before the named Arbitrator within four weeks.

The interlocutory application, if any, shall also stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

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