IN THE HIGH COURT OF JUDICATURE AT PATNA

Request Case No.10 of 2015

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Sanjay Kumar son of Sri Dinesh Prasad, resident of Chakdawah, Police Station Sheikhpura, District Sheikhpura, Proprietor Jai Mata Di Rice Mill Chakdawah Sheikhpura

.... Petitioner/s

Versus

1. The Managing Director Bihar State Food And Civil Supply Cor. Ltd., Sone Bhawan, Birchand Patel Path, Patna
2. The Deputy Chief Claim, Bihar State Food And Civil Supply Cor. Ltd., Sone Bhawan, Birchand Patel Path, Patna
3. The District Manager, the State Food and Civil Supplies Corporation, Lakhisarai/Sheikhpura
4. The Certificate Officer, Sheikhpura

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Roy

For the Respondent/s : Mr. Shailendra Kumar Singh

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 23-07-2015

The petitioner is a Rice Miller. In the year 2013, the Bihar State Food & Civil Supplies Corporation (hereinafter referred to as 'the Corporation') has, for and on behalf of the Food Corporation of India, supplied 10736.40 quintals of paddy for custom milling to the petitioner. As per the agreement between the parties, the petitioner was supposed to deposit 7193.40 quintals of resultant rice worked out @ 67% of the paddy. As against that, the petitioner supplied 5130 quintals of rice and there was balance of 2063.40 quintals.

The respondents issued notice to the petitioner requiring him to deposit the cost of the balance quantity of rice worked out at Rs. 44,68,416.50. Thereafter steps were initiated under the Bihar & Orissa Public Demands Recovery Act, 1914.

This application is filed with a prayer to refer the dispute to an Arbitrator in terms of Clause 16 of the Agreement.

The respondents filed counter affidavit. It is stated that the petitioner had admitted their liability to pay the cost of the balance of rice and in fact tendered the amount of Rs.10 lacs. According to the respondents, there is no dispute worth being referred to the Arbitrator.

Heard Shri Jitendra Kumar Singh, learned counsel for the petitioner and Shri Anjani Kumar, learned Senior Counsel, for the respondent-Corporation.

It is a matter of record that the petitioner received paddy for custom milling and was under obligation to tender the rice to the extent of 7193.40 quintals. However, there was a short delivery of 2063.40 quintals of rice. After the due date, when the respondents demanded the cost of undelivered rice being Rs.44,68,416.50p. the petitioner came forward to pay the amount in instalments. They issued two demand drafts for Rs.5 lacs each. The petitioner, however, stated that the cost of undelivered rice is Rs.38,49,626.86p. While the respondents calculated the amount on the basis of cost of the rice, the petitioner wants to reckon the amount as per the cost of the paddy. That, in fact, can be the area of dispute. However, in terms of money, the dispute is only in relation to the amount of Rs.6,18,789.64p. (Rs.44,68,416.50 – Rs.38,49,626.86p.).

It is not in dispute that Clause 16 of the Agreement provides for resolution of dispute between the parties through arbitration in accordance with the procedures stipulated therein. As condition precedent for that, the petitioner has to pay the remaining amount. A sum of Rs.10 lacs has since been paid.

This application is, therefore, disposed of directing that the dispute between the parties is restricted to Rs.6,18,789.64p. and is referred to arbitration under Clause 16 of the Agreement dated 30.3.2013 provided that the petitioner clears the balance of Rs.28,49,626.86p. before presenting the claim with the Arbitrator.

(L. Narasimha Reddy,CJ)

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