IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21478 of 2016
Date of decision: 03.11.2016

M/s Sant Rice & General Mills

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. M.L. Saggar, Senior Advocate with
Ms. Armaan Saggar, Advocate
for the petitioner.

Mr. B.M. Vinayak, DAG, Punjab.

Mr. Nitin Kaushal, Advocate
for respondents No.2 & 3.

Mr. Athar Ahmed, Advocate
for respondent No.4.

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RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the impugned communication dated 06.10.2016 (Annexure P-14) (wrongly pointed out in the prayer clause as Annexure P-1), whereby respondent No.3 wrote to District Controller, Department of Food, Civil Supplies and Consumer Affairs-respondent No.5 not to allot any paddy to the petitioner-firm, it has approached this Court by way of present writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, for quashing the impugned communication (Annexure P-14).

Notice of motion was issued and in compliance thereof, short reply on behalf of respondents No.2 and 3 along with Annexures R-2/1 and R-2/2 filed in the Court today, is taken on record and copy thereof has been supplied to learned counsel for the petitioner.

It is a matter of record that to resolve the dispute between the petitioner and respondents No.2 and 3, matter was referred to the Arbitrator who submitted the arbitration award (Annexure P-15), holding the petitioner responsible to pay the amount mentioned therein. It is also not in dispute that the said award, contained in Annexure P-15, was set aside on the petition filed by the petitioner under Section 34 of the Arbitration and Conciliation Act, 1996 vide order dated 01.04.2011 by the learned Additional District Judge, Ludhiana (Annexure P-16). In the meantime, guidelines dated 06.06.2009 (Annexure P-17) came to be issued to all the procurement agencies to drop the arbitration proceedings, wherever these were pending between the procurement agencies and the millers regarding kharif 1994-95, however, in certain conditions, the procurement agencies were granted the liberty to take their respective decision in this regard.

As per the stand taken on behalf of respondents No.2 and 3 in their reply filed today, a claim petition came to be filed before the Managing Director, Punjab State Cooperative Supply and Marketing Federation Limited ('MARKFED' for short)-respondent No.2 vide Annexure R-2/1 for recovery of an amount of Rs.2,44,53,449/- against the petitioner. Learned counsel for respondents No.2 and 3 submits that this claim petition was filed in the month of May, 2015 i.e. after expiry of a period of more than four years, after passing of the order dated 01.04.2011 (Annexure P-16) by the learned Additional District Judge, Ludhiana. There is hardly any explanation for this inordinate delay of more than four years at the hands of respondents No.2 and 3.

Learned senior counsel for the petitioner has been found well justified in contending that on the one hand, respondent No.2 is sitting tight over the matter and not taking an appropriate decision on the claim petition (Annexure R-2/1), which was not even maintainable and on the other hand, impugned communication (Annexure P-14) has been issued to the procurement agency i.e. PUNGRAIN who was to allot the paddy to the petitioner, thereby causing manifest injustice to the petitioner.

Having heard learned counsel for the parties at considerable length and without expressing any opinion on merits of the case, lest it should prejudice the rights of either of the parties, present writ petition is disposed of, with a direction to the Managing Director, MARKFED-respondent No.2 to take final decision on the claim petition (Annexure R-2/1) of MARKFED pending decision before him.

Let him take an early decision by passing an appropriate order thereon, strictly in accordance with law but in any case within a period of two weeks from the date of receipt of certified copy of this order.

However, keeping in view the peculiar facts and circumstances of the case noticed hereinabove and also to ensure that claim of the petitioner may not be rendered infructuous, Punjab State Grains Procurement Corporation Limited (PUNGRAIN)-respondent No.6 is directed to retain the stock of paddy, which was intended to be allotted to the petitioner for a period of three weeks from today. In case, Managing Director of MARKFED-respondent No.2 does not decide the claim petition of MARKFED (Annexure R-2/1) within the abovesaid stipulated period of two weeks, PUNGRAIN-respondent No.6 would be at liberty to allot the same quantity of paddy to the petitioner, which was intended to be allotted in the absence of impugned communication (Annexure P-14).

As suggested by learned counsel for respondent No.2, petitioner is directed to appear before the Managing Director, MARKFED-respondent No.2 on 07.11.2016, so as to enable respondent No.2 to proceed further in the matter and take appropriate decision without any further loss of time.

With the abovesaid observations made and directions issued, present writ petition stands disposed of.

[RAMESHWAR SINGH MALIK]
JUDGE

03.11.2016
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No