

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. FAO No.836 of 2011 (O&M)
Date of decision : 01.12.2016

District Manager, Punjab State Cooperative Supply and Marketing
Federation Limited, Ferozepur

...Appellant

Versus

M/s Ferozepur Rice and General Mills and others

..Respondents

2. FAO No.837 of 2011 (O&M)
Date of decision : 01.12.2016

The Punjab State Cooperative Supply and Marketing Federation Limited

...Appellant

Versus

M/s Ferozepur Rice and General Mills and another

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Vikas Singh, Advocate for the appellant.

AMIT RAWAL, J. (Oral)

CM No.2344-CII of 2011

For the reasons stated in the application, which is duly supported by an affidavit, delay of 73 days in refiling the appeal is condoned.

Application stands allowed.

Main case

This order of mine shall dispose of two appeals filed at the instance of Markfed against the allowing of the objections filed by the Miller and dismissal of the objections qua not granting the entire claim by the Arbitrator.

As per office report dated 28.01.2013, service upon respondents has already been effected long time back. There is no representation on behalf of Miller.

Mr. Vikas Singh, learned counsel appearing on behalf of procuring agency-appellant submits that against the claim of ₹33,00,000/-, the arbitrator awarded a sum of ₹2,44,871/- against the unauthorized milling of the paddy i.e. without issuing of the release order and rejected his claim. The said award was objected to but the objection as noticed above of the Miller has been allowed and that of the PUNSUP been dismissed by relying upon the Government instructions dated 06.06.2000. He submits that order would not be applicable as each and every case has to be examined on touchstone of the evidence. The objections of the appellant have been dismissed on the ground that they were not falling under the realm of Section 34 of the Act whereas objection of the Miller has been entertained, thus, there is gross illegality, inconsistency, much less, perversity.

I have heard learned counsel for the appellant and appraised the paper book and of the view that as per the policy, in case of any shortage and on physical verification, the Miller was given opportunity to deposit the amount. Once the said amount has been deposited, in my view, claim of

₹33,00,000/- was not maintainable. As regards, the claim of ₹2,44,871/- regarding unauthorized milling of the paddy without release order, is neither here nor there.

I am of the view that objection of the Miller was perfectly falling within the realm of Section 34 as it was against the public policy.

For the reasons aforementioned, I do not intend to differ with the findings under challenge.

No ground for interference is made out.

Accordingly, both appeals are dismissed.

01.12.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No