

FAO No.418 of 2016 (O&M)

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

**FAO No.418 of 2016 (O&M)
Date of decision:21.01.2016**

M/s Guru Nank Food Products

... Appellant

Vs.

Punjab Agro Food Grains Corporation Limited
& others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Ashish Bansal, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.1221-CII-2016

For the reasons stated in the application, duly supported by an affidavit, delay of 32 days in filing the appeal is condoned.

C.M. stands disposed of.

FAO No.418 of 2016 (O&M)

The appellant – Miller is in Appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short '1996 Act') aggrieved of the order dated 11.09.2015 vide which the objections filed under Section 34 of 1996 Act, seeking setting aside of the Award dated 08.08.2013, have been dismissed.

Mr. Ashish Bansal, learned counsel for the appellant-Miller submits that it was a specific case of the Miller before the Arbitrator that he had not received the paddy as mentioned therein. Reasons for non-milling of paddy and non-supply of resultant rice was poor and sub-standard quality of paddy which was also widely known as PAU-201 during crop year 2009-10. The Government of India had come out with restructuring of policy, whereby, compensation was sanction for the Miller on account of bad quality of paddy. This fact has not been noticed by the Arbitrator, as well as, by the Objecting Court, therefore, the Award and impugned order are not sustainable in the eyes of law. The objections were within the parameters of Section 34 of 1996 Act and thus, prays for allowing of the appeal.

I have heard learned counsel for the appellant-Miller and appraised the paper book.

In the cross-examination, Miller admitted the execution of the agreement, Annexure C-2. However, in the reply, he had taken a different stand that the signatures on the blank paper. In this regard, no evidence has been led, rather the appellant faced criminal action which ultimately resulted into cancellation of FIR, but the fact remains that as per the physical verification conducted on 31.08.2011, there was a shortage of paddy. Since the agreement contains arbitration clause, the matter was referred to the Arbitrator.

It is now a settled law that as to under what circumstances the award has to be interfered with. The question

which has now been raised in the aforementioned appeal has already been answered by the Hon'ble Supreme Court in catena of judgments, wherein it has been laid down that until and unless the award suffers from illegality as statutorily prescribed under Section 31 (3) of the Act, the same cannot be interfered with. In this context I intend to refer the judgments of Hon'ble Supreme Court in **Associate Builders Vs. Delhi Development Authority (2015) 3 SCC 49** and **Navodaya Mass Entertainment Ltd. Vs. J. M. Combines (2015) 5 SCC 698**. In the aforementioned judgment the Hon'ble Supreme Court had culled out the ratio decidendi by holding that until and unless there is error apparent on the face of record or the arbitrator has not followed statutory legal position, it is only in these circumstances it would be justified interfering with the award. The High Court should not act as a Court of appeal and reappraise the material/evidence and embarked on a path by substitution in its own view. The arbitrator has dealt with the dispute which was contemplated and was within the scope of it.

In my view, the Award of the Arbitrator does not suffer from any illegality, inasmuch as, the Arbitrator, who, is an expert has dealt with the matter and decided the claim of respective claimants to the parties to the *lis*.

It is now a settled law that the Arbitrator is the sole judge of quality and quantity of the evidence before him and decide on the basis of the available evidence.

In my view, no error of law arise from the Award, as well

as, order impugned. The Award is perfect and justified.

There is no merit in the aforementioned appeal.

The appeal is accordingly dismissed.

(AMIT RAWAL)
JUDGE

January 21, 2016
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