

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 5283 of 2017
Date of Decision : 20.03.2017

Dharup Singh

...Petitioner

Versus

Haryana State Cooperative Supply & Marketing Federation Limited
and others

...Respondents

CORAM: *HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE*
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Anurag Chopra, Advocate for the petitioner.

Mr. Sandeep Moudgil, Addl. Advocate General, Haryana
for respondents No. 1 and 2.

Mr. K.K. Gupta, Advocate for respondent No. 3.

S.J. VAZIFDAR, C.J.(Oral)

1. The petitioner has sought a writ of mandamus to direct respondent No. 2-District Manager, Haryana State Co-operative Supply and Marketing Federation Limited (HAFED), to comply with a letter addressed to it by respondent No. 3-Food Corporation of India (FCI), regarding extension of the period of a handling contract of PEG Godown, Francewala Road, District Kaithal for the year 2017-2018 by a letter dated 08.03.2017 (Annexure P-5). In effect, the petitioner seeks an order directing the respondents to extend his contract for further period of one year.

2. The petitioner was awarded a contract for handling food grains. The contract is not annexed to the writ petition. A copy thereof was tendered. We will for the purpose of this petition presume that the terms

and conditions annexed to the writ petition at Annexure P-2 apply to the parties.

3. Mr. Chopra relies upon the following term:-

(A) “X. **Period of Contract** :- *The contract shall remain in force for a period of one year from 01.04.2017 to 31.03.2018 for all the 10 year Guarantee Godowns (PEG Scheme) of District Kaithal or such later date as may be decided by the Managing Director and/or any other person authorized and acting on his behalf who also reserves the right:*

(i) ***To extend*** the period of contract for a further period ***upto one year***, on the same rates, and same terms & conditions.

(ii) *To terminate the contract at any time during its currency without assigning any reason thereof by giving thirty days notice in writing to the contractor/s at their last known place of residence/business and the Contractor/s shall not be entitled to any compensation by reason of such termination.*

The action of the Managing Director, The Haryana State Co-operative Supply & Marketing Federation Limited, Panchkula or the person authorized by him under this clause shall be final, conclusive and be binding on the contractors and shall not be called into question.”

(B) Mr. Chopra further states that Clause 5 reproduced in paragraph 3 of the petition also applies between the parties. We will for the purpose of this petition presume that to be so. The Clause 5 referred to in the writ petition reads as under:-

“Period of Contract: *The Committee is at sole discretion:- To extend the period of contract for another one year further beyond the original contract period on the same*

rates, terms and conditions and contractor has to work accordingly.”

4. None of the Clauses entitles the petitioner, as a matter of right, to an extension of the contract. The clause, in fact, expressly confers the right upon the Managing Director of HAFED and/or any other person authorised and acting on his behalf to extend the period of the contract for a further period up to one year, on the same rates, and on the same terms & conditions. Neither the Managing Director nor any person authorised or acting on his behalf has granted an extension. They cannot be compelled to do so.

5. The correspondence relied upon by the petitioner does not carry the case further. It does not evidence an extension having been granted by the respondents or for that matter even by respondent No. 3-FCI. The correspondence between HAFED and FCI leaves the aspect of extension inconclusive.

6. HAFED by a letter dated 03.03.2017 merely stated that the extension “can be given” in accordance with the terms and conditions. HAFED then seeks FCI's approval for extension of the contract by a period of one year. Whether HAFED was bound to seek the approval of FCI or not is a matter which does not concern the petitioner. It is a matter between HAFED and FCI. It must be clarified that although HAFED appears to have been engaged by FCI the contract was entered into between HAFED and the petitioner on a principal to principal basis. Even if HAFED was only an agent acting for and on behalf of FCI, it would make no difference. HAFED by a further letter dated 07.03.2017, sought FCI's comments

regarding the details specified therein which included the petitioner's contract. FCI by a letter dated 08.03.2017, responded by stating that HAFED may take appropriate necessary action with the approval of a competent authority to extend the contract. By this letter an extension was not agreed to by FCI. In any event, no such extension was communicated to the petitioner. Reliance is also placed upon FCI's letter to HAFED dated 14.03.2017 (Annexure R-3/2), which inter alia states as follows:-

“The handling rates in respect of PEG godown Batedi, Pabnawa, Solumajra, Fathepur, Ghararsi-1, Ghararsi-2 & Franswala for the year 2015-16 and 2016-17 are as under:-

<i>Name of Godown</i>	<i>HTC rates for the year 2015-16</i>	<i>HTC rates for the year 2016-17</i>
Pabnawa	92% ASOR	79% ASOR
Solumajra	250% ASOR	238% ASOR
Franswala	725% ASOR	674% ASOR
Bhatedi	44% ASOR	At Par
Gharasi unit-1	381% ASOR	376% ASOR
Gharasi unit-2	381% ASOR	376% ASOR

In this context, it is informed that the rates of handling contract for the year 2016-17 are lower side as comparison to financial year 2015-16. So you are requested to take appropriate action as per clause No. 5(i), HTC contract can be extended for further one year except PEG godown Kailram as conveyed vide your office letter dated 7.3.2017 ibid and if Hafed feels the above rates feasible.”

This letter does not convey an extension having been granted. It does not indicate that extension was agreed to be granted. HAFED was only requested to take appropriate action if it felt that the rates were feasible.

7. The learned counsel appearing on behalf of the FCI stated that

even if HAFED invites fresh tender and the rates quoted are not as competitive as the petitioner's tender, FCI would not agree to the same. The present petition is not a dispute between FCI and HAFED. They are always at liberty to take such steps as they desire in respect of their contention.

8. The petition is, accordingly, disposed of.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(ANUPINDER SINGH GREWAL)
JUDGE

20.03.2017
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Whether speaking/reasoned?	Yes
Whether reportable?	No