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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **O.M.P.(I) (COMM.) 226/2017**

ADANI AGRI LOGISTICS LIMITED

..... Petitioner

Through Mr Rajiv Nayar, Senior Advocate with
Ms Meghna Mishra, Mr Satvir Verma, Advocates.
versus

FOOD CORPORATION OF INDIA

..... Respondent

Through Mr Manoj, Standing Counsel for FCI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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31.05.2017

IA No. 6988/2017

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

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3. The petitioner has filed the present petition under Section 9 of the Arbitration and Conciliation Act, 1996, *inter alia*, praying as under:-

“a) Stay the operation of Notice of Intention to Terminate dated 24.04.2017 issued by the Respondent;

b) Restrain the Respondent from taking any action in furtherance of communication dated 08.02.2017 and letter dated 24.04.2017;

c) Direct the Respondents to adhere to the provisions of Articles 13 and 18 of the Service Agreement and in particular to continue to fulfil and perform all of its obligations under the Service Agreement pending the resolution of the dispute between the parties; and

d) Pass any and such further orders that this Hon'ble Court may deem fit in the facts and circumstances of the present case.”

4. Mr Nayar, the learned Senior counsel appearing for the petitioner has drawn the attention of this court to clause 13.1 of the agreement dated 28.06.2005 entered into by the parties. He has also referred to the letter dated 24.04.2017, whereby the respondent had issued a notice of intention to terminate the said agreement.

5. In terms of clause 13.1 (2) if a default is capable of being cured and is remedied within the specified period from the receipt of FCI's notice specifying such failure, then it would be deemed that such default had not taken place at all. However, if the default is not remedied then FCI could proceed to terminate the agreement in accordance with the procedure as stipulated under Clause 13.3 of the agreement.

6. The learned counsel appearing for the FCI submitted that the letter dated 24.04.2017 is not a letter of termination but a letter of intention to terminate if the default is not cured. He confirms that FCI would follow the procedure under clause 13.3 of the agreement, in the event the contract has to be terminated.

7. In view of the above, Mr Nayar seeks to withdraw the present petition.

8. The petition is dismissed as withdrawn.

9. Order *Dasti*.

VIBHU BAKHRU, J

MAY 31, 2017

pkv