IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

*****

CWP No.17740 of 2018
Date of Decision:08.08.2018

*****

M/s Shiva Traders

. . . . . Petitioner

Vs.

Union of India and others

. . . . . Respondents

*****

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

*****

Present: - Mr.Rose Gupta, Advocate,
for the petitioner.

*****

RAKESH KUMAR JAIN, J.

The petitioner entered into an agreement on 24.10.2013 for custom milling of paddy in which as per condition No.5, the miller undertook to shell paddy at the rates fixed by the Government of India from time to time which included Clause (m) regarding payment of driage @ 1% of MSP or as allowed by the Government of India. The agreement also contains Clause 27 dealing with the arbitration clause which says that *"all the disputes and differences arising out of or in any manner touching or concerning this agreement whatsoever shall be referred to the sole arbitrator of the Managing Director or any person appointed by him in this behalf"*.

According to the petitioner, the Minimum Support Price [MSP] for raw rice and par-boiled rice, both for grade A, was fixed @ ₹1345/- per quintal. The grievance of the petitioner is about the final rate of driage of paddy per quintal, fixed by the respondents as ₹5.89/- per quintal which was allegedly ₹13.45/- per quintal and the difference of ₹7.56/- per quintal is found to be recoverable.

It has come on record that during the Kharif Marketing Season [KMS] 2013-14, the MSP of paddy was ₹1345/- per quintal and the driage was of ₹13.45/- per quintal which was given in the provisional cost-sheet of the custom milled rice issued by the Government of India. While finalizing the cost-sheet for the year 2013-14, the driage amount has been calculated @ ₹5.89/-. The petitioner has raised a dispute about the rates of driage. In clause 5 of the agreement referred to above, it has been agreed between the parties that the petitioner/miller would shell the paddy at the rate fixed by the Government of India from time to time and it was made clear in Clause 5(m) of the agreement that the payment of driage would be @ 1% of the MSP or of the rate fixed by the Government of India.

Thus the dispute or the difference arising out of or in any manner touching or concerning the agreement is to be referred to the Arbitrator in terms of Clause 27 of the agreement to which both the parties are bound, therefore, the petitioner may avail the remedy of arbitration but in the presence of the same, the writ petition is not maintainable and hence, the same is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

08.08.2018
Vivek

Whether speaking /reasoned : Yes/No
Whether Reportable : Yes/No