

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

FAO No. 539 of 2018 (O&M)

Date of decision : 27.08.2018

Food Corporation of India

....Appellant

V/s

M/s Shah Rice Mills & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Atul Gaur, Advocate for
 Mr. Sumeet Goel, Advocate for the appellant.

RAJAN GUPTA J.

Present appeal has been filed under section 37(1)(b) of the Arbitration and Conciliation Act, 1996 against the judgment dated 18.08.2017 whereby objections filed by appellant under Section 34 of the Act against the award dated 25.05.2015 have been dismissed. Brief factual background of the case is that appellant-Corporation had entered into an agreement dated 22.10.1994 with the respondent no. 1-Miller for custom milling and storage of paddy. The paddy had to be milled and delivered by 31.05.1995. Accordingly, respondent-Miller was to be paid milling charges @ ₹9/- per quintal. However, respondent miller failed to delivered the paddy with the prescribed time i.e. by 31.01.1996. Accordingly, appellant-Corporation send various demand notices to respondent-miller for delay in supply of paddy, charges towards retained gunny bags etc. Consequently, respondent no. 6 was appointed as Arbitrator for settlement of the dispute. Appellant-Corporation filed its claim before the Arbitrator and claimed an amount of ₹4,05,126.16/-. On the other hand, respondent-miller also filed

its counter claim before the Arbitrator. After considering evidence of the respective parties, it came to the conclusion that there was huge delay by the appellant-Corporation itself in delivering the paddy to the Miller and therefore Corporation was not entitled to seek any compensation for any alleged delay on the part of the Miller to deliver the milled rice. It, thus, dismissed the claim filed by the Corporation vide order dated 25.05.2015. However, counter claim filed by respondent was allowed and Corporation was directed to pay a sum of ₹6,94,111.60/- alongwith interest @ 9/- per annum from the date of award till realization. Aggrieved, appellant-Corporation filed objections under Section 34 of the Arbitration and Conciliation Act, 1996. The Additional District Judge, Gurdaspur vide judgment dated 18.08.2017, dismissed the said objections of the appellant.

I find no infirmity with the orders passed by the Arbitrator as well as the court below. It appears that as per agreement between the parties, respondent-Miller was required to shell the paddy within ten days after lifting of the same. However, same was supplied by Corporation to respondent-Miller upto 30.01.1996. Therefore question of supplying the milled paddy up to the stipulated date i.e. 31.05.1995 does not arise. As there was huge delay by the appellant-Corporation itself in delivering the paddy to the Miller and therefore there is no delay in supply of paddy on the part of respondent-Miller. In my considered view, the award passed by the Arbitrator is reasonable and objections raised by the appellant are not tenable. The Arbitrator has rightly appreciated the evidence led by the parties. It is well settled that award of the Arbitrator cannot be set-aside without having proved grave misconduct by the Arbitrator. There is nothing

court below is not in consonance with the evidence on record. Thus, appeal is without any merit and is hereby dismissed.

August 27, 2018
Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No