

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

CM-2911-CII-2019 in/and
ARB-133-2017 (O&M)
Date of decision:- 29.03.2019

M/s Richi Richi Agro Foods Pvt. Ltd.

...Applicant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE

Present:- Ms. Neha Rana, Advocate,
for the applicant.

Mr. Deepak Balyan, Additional Advocate General, Haryana,
for the respondents.

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KRISHNA MURARI, C.J. (ORAL)

CM-2911-CII-2019

Cause shown for non-appearance in restoration application is found to be sufficient and order dated 18.01.2019 is recalled.

The application stands restored to its original number.

ARB-133-2017

This is an application under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of an arbitrator.

2. Admittedly, there is an agreement between the parties, clause 26 whereof contains an arbitration clause for resolution in case of any dispute or difference between them.

The said clause is being reproduced hereunder:-

"26. All the minor disputes and differences arising out of interpretations or in any manner touching or concerning this agreement

whatsoever (except as to any matter the decision of which is expressly provided for in the contract) shall be referred to the sole arbitrator of the Director Food and Supplies, Haryana/Managing Director of the Agency or any person appointed by him in this behalf. There will be no objection to any such appointment that the person appointed is or was an employee of Food and Supplies Department, Haryana/Agency and he had expressed views on all or any of the matter in dispute or difference. The award of such arbitration shall be final and binding on both the parties to this contract. It is a term of this contract that in the event of transfer, vacation of office or being unable to act for any reason of a person appointed as an arbitrator by the Director Food and Supplies, Haryana/Managing Director at the time of such transfer, vacation of office, death or inability shall appoint another person to act as an arbitrator. Such a person shall be entitled to proceed with reference from the stage where it was left by his predecessor.

Provided that any demand for arbitration in respect of any claim(s) of the miller/second party, under the contract shall be in writing and made within one year of the date of completion or expiry of the period of contract. If the demand is not made within the period, the claim(s) of the miller/second party shall be deemed to have been waived off and released of all liabilities under the contract in respect of these claims. The cost for and in connection with arbitration shall be the discretion of the arbitrator who may make suitable orders in his award.

Subject as aforesaid, the Arbitration and Conciliation Act, 1996, shall apply to the arbitration provided under this clause. However, the cases

of fraud, theft or misappropriation etc. on the part of second party are not covered under this clause and in such cases legal proceedings as deemed fit will be initiated by the first party against the second party as well as against the sureties."

3. Mr. Deepak Balyan, learned Additional Advocate General, Haryana, appearing for the respondents, does not dispute the fact of the existence of the arbitration clause and that there exists a dispute between the parties.
4. Thus, in accordance with the terms and conditions of the agreement between the parties, an independent arbitrator is to be appointed to resolve the disputes and differences. Accordingly, I hereby appoint Mr. Justice Madan B.Lokur, a former Judge of the Supreme Court of India, to act as an arbitrator to settle the disputes between the parties. The fee etc. shall be as may be settled by the parties with the learned arbitrator.
5. The application accordingly stands disposed of.

(KRISHNA MURARI)
CHIEF JUSTICE

29.03.2019
Amodh

whether speaking/reasoned	Yes/No
whether reportable	Yes/No