

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 20.11.2019****CWP No.18401 of 2014**

Atwal Rice & General Mills & another ...Petitioners

Vs.

Punjab State Civil Supplies Corporation & others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINAPresent: Mr. Anupam Singla, Advocate,
for the petitioner.Ms. Deepali Puri and Ms. Suman Saxena, Advocates,
for respondents No.1 & 2.**RAJIV NARAIN RAINA, J. (ORAL)**

1. The dispute between the petitioning Rice Mill and the Punjab State Civil Supplies Corporation Limited (PUNSUP) has been arbitrated and an award has been passed by the Arbitrator in favour of PUNSUP. The petitioners are in appeal by way of an application under Section 34 of the Arbitration & Conciliation Act, 1996 (for short 'the Act'), which is pending in the Court of learned District Judge at Jalandhar. The dispute arose out of contract signed between the parties on 14.10.2009. Years later, on 21.03.2014, the Government of Punjab fixed the revised rate of paddy, bardana etc. and sought to recover the difference from the petitioners.

2. PUNSUP raised a dispute under Section 21 of the Act claiming that arbitration had commenced on receipt of the request for the dispute to be referred for arbitration by the petitioners. PUNSUP appointed an Arbitrator,

who issued notices to the petitioners. Aggrieved by appointment of an Arbitrator and starting arbitration proceedings to recover the money under the 2014 circular/letter, the petitioners have approached this Court contending that the instructions cannot operate retrospectively to alter the rights and liabilities of the parties contained in the contract which had an arbitration clause with dispute pending at Jalandhar in proceedings under section 34 of the Act.

3. Counsel argues that there is no fresh contract containing an arbitration clause to give rise to arbitral proceedings via the circular letter of 2014 and, therefore, the action of PUNSUP is de hors the law and without jurisdiction. The petitioners cannot be compelled to face illegal proceedings on a matter, which does not constitute subject matter of arbitration beyond the 2009 milling contract. There being no clause in the original contract taking care of such a demand based on the decision taken in the year 2014.

4. On the other hand, Ms. Deepali Puri appearing for the corporation short of having to concede can hardly impress this court in support of the action of the PUNSUP in appointing an Arbitrator arbitrarily within the teeth of bar of limitation and staring in the face of the judgments of the Supreme Court as well as of this Court in Punjab State Cooperative Supply and Marketing Federation Ltd. Chandigarh Vs. M/s Shri Jagdamba Rice Mills [CC No.17539 of 2016 decided on 04.10.2016]; FAO No.806 of 2009 titled 'Punjab State Civil Supplies Corporation Ltd. & another Vs. Rajinder Kumar & another' decided on 22.01.2016; FAO No.446 of 2016 titled 'Punjab State Civil Supplies Corporation Ltd. & another Vs. M/s Shri Jagdamba Rice Mills & another' decided on 02.05.2016; CWP No.9279 of 2015 titled 'M/s R.S.Rice Mills Vs. State of Punjab & others' decided on

04.05.2016; CWP No.10842 of 2015 titled 'M/s Sant Attar Singh Rice Mills Vs. State of Punjab & others' decided on 27.05.2016 and LPA No.947 of 2016 titled 'Punjab State Civil Supplies Corp. Ltd. & another Vs. M/s R.S.Rice Mills & another' decided on 13.02.2019, the principle declared in the precedents being settled as urged by the learned counsel for the petitioners.

5. Accordingly, this petition succeeds and the impugned order/s and consequential actions are set aside. The appointment of the second Arbitrator is nullified. The petitioners shall have cost of these proceedings to be assessed and paid by the PUNSUP.

20.11.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes
Yes/No