

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

FAO No. 3802 of 2013 (O&M)
Date of decision: 25.7.2019

Punjab State Civil Supplis Corporation Ltd., Chandigarh and another
...Appellants

Versus

M/s Aggarsein Rice Mills & Ors.

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Ms.Deepali Puri, Advocate
for the appellants.

Mr. Manjeet Pathania, Advocate,
for respondents No.1 to 3.

JAISHREE THAKUR, J.

1. This first appeal has been filed against the judgment dated 20.4.2013 passed by the Additional District Judge, Chandigarh, whereby the objection filed by the appellants herein under Section 34 of the Arbitration and Conciliation Act, 1996 (henceforth called '**the Act**' for short) against the arbitral award dated 6.4.2007 stand dismissed.

2. Learned counsel for the appellants herein contends that the award of the Arbitrator is not sustainable on the ground that he has not taken into consideration that there was a revised claim filed by the appellants herein claiming a sum of ₹3,80,469.86 on account of 'costs of balance rice' that had to be recovered from the Miller—respondents. It is argued that initially a claim had been filed for a sum of ₹1,70,297.87, which was eventually revised, based on the policy of the Government dated 6.6.2000, but the Arbitrator has not taken into consideration the fact that it

was only on account of recovery of balance rice that the claim had been filed. It is further argued that the Arbitrator has erred in holding that it would fall within the excepted clause, whereby it was the Managing Director, who has to take decision thereon. Learned counsel relies on the judgment rendered in **Punjab State Civil Supplies Corporation Ltd. and another Vs. M/s Shiv Shankar Rice Mills Pvt. Ltd. and another 2013 (5) R.C.R. (Civil) 83** in support of her arguments.

3. Per contra, learned counsel for the respondents is not able to dispute the ratio as laid down in **M/s Shiv Shankar Rice Mills (supra)** and contends that the matter be referred back to the Managing Director for appointment of a fresh Arbitrator to settle the dispute with regard to the cost of the balance rice.

4. I have heard learned counsel for the parties.

5. In view of the fact that both the parties are in agreement that the Arbitrator needs to look into the question, whether or not the respondents herein are liable to pay the cost of the balance rice along with bank interest, this appeal is disposed with the direction to the Managing Director, PUNSUP, to appoint a fresh Arbitrator, who shall decide the question whether the respondents are liable to pay the cost of balance rice. Needless to mention that the Arbitrator shall give due notice to the respondents.

6. The appeal stands disposed of accordingly.

25.7.2019
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No