

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

FAO No. 4092 of 2018 (O&M)
Date of decision: 8.5.2019

The Punjab State Co-operative Supply & Marketing Federation Limited
...Appellant

Versus

M/s Swati Rice Mills and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Naresh Gopal Sharma, Advocate and
Mr. Mehardeep Singh, Advocate,
for the appellant.

JAISHREE THAKUR, J.

1. This First Appeal against Order has been filed under Section 37 of the Arbitration and Conciliation Act (for short '**the Act**') seeking to challenge the order dated 2.2.2018 passed by the Additional District Judge, Barnala, dismissing the objections filed against the award dated 13.4.2013 as passed by the Arbitrator.

2. In brief, the facts are that the appellant/Markfed entered into an agreement with the respondent M/s Swati Rice Mills on 15.11.2012 for milling of the crop year 2012-2013 and in terms of the agreement, miller was allotted 37,051,35 quintals of paddy in 87, 861 A Class Bags and 18000 B-Class bags. The Miller was required to supply rice to the extent of 67% of the total quantity of paddy after availing benefit of 1% driage which comes to 24,576.16 quintals of rice within the stipulated period upto 31.7.2013. As the miller delivered only 18,838.40 quintals of rice within the

extended period upto 17.1.2014, the miller-respondent No.1 herein was called upon to compensate the agency. Eventually, on account of the dispute that arose, the sole Arbitrator was appointed by the Managing Director, Markfed to adjudicate upon the matter. The Arbitrator by its award dated 13.4.2013 partly allowed the claim of the appellant but did not grant interest on account of late delivery of rice. Aggrieved against the said award, the appellant filed its objections before the Additional District Judge, Barnala, under Section 34 of the Act seeking interest, which were dismissed, which has led to filing of the instant appeal.

3. Learned counsel appearing for the appellant contends that in terms of the agreement entered into between the parties, the appellant herein would be entitled to interest on account of late delivery of rice during the extended period of milling i.e. upto 17.1.2014.

4. I have heard learned counsel for the parties and have also perused the pleadings of the case.

5. The only question that needs to be addressed is, whether the Arbitrator had erred in disallowing the interest, as claimed on account of late delivery of rice? The Arbitrator deliberated upon the question whether the claimant/Markfed would be entitled to interest in para 9 of the Award and held that on account of government policy bearing No. 5 (15)/8012/Hy dated 10.12.2013, no charges would be levied for storage and interest for customs milled rice delivered to FCI during this period. By relying upon the government letter, the Arbitrator was of the opinion that claim regarding interest on late delivery of rice is not maintainable. The Additional District Judge, Barnala, too upheld the award finding that no interference was called

for since there was novation of the contract as new policy had come in by the Government of India letter dated 10.12.2013.

6. Learned counsel appearing on behalf of the appellant made a valiant attempt to argue that the interest would be payable in terms of the contract that had been entered between the parties, However, this Court find that the Arbitrator had correctly applied the Government of India's instructions which clearly stated that interest would not be chargeable during the extended period of time of delivery nor would have there been any additional storage charges. The Additional District Judge finding no infirmity in the award, as there was no failure of the parameters as set down under Section 34 (2) of the Act, dismissed the objections. There is no infirmity, irregularity or illegality in the findings so recorded by the Arbitrator as well as the Additional District Judge.

7. Consequently, the appeal is dismissed being bereft of merit.

8.5.2019
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No