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

CM No. 16874 CII of 2018 in/and
FAO No. 5092 of 2018 (O&M)
Date of decision: 15.1.2019

Punjab Markfed

...Appellant

Versus

M/s Pratham Rice Mills

...Respondent

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

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

**JAISHREE THAKUR, J.**

**CM No. 16874 CII of 2018**

For the reasons stated in the application, which is supported by an affidavit, the delay in filing the appeal is condoned.

CM stands disposed of.

**Main case**

The appellant herein seeks to challenge the order dated 21.10.2017 passed by the Additional District Judge, SBS Nagar, whereby the objections filed by the appellant under Section 34 of the Arbitration and Conciliation Act, 1996 (for short **'the Act'**) against the Arbitration Award dated 29.10.2014, has been dismissed.

In brief, the facts giving rise to the present appeal are that the appellant herein entered into an agreement with the respondent on 15.10.2009 for shelling of paddy of the crop year 2009-2010. The appellant supplied 69833 bags of A Grade paddy (weighing 24440.55 quintals) to the

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respondent for milling. However, the respondent milled only 55342 bags of paddy and delivered 2440 bags (weighing 12383.55 quintal) of rice to the appellant. Therefore, the appellant filed a claim petition dated 17.4.2012 against the respondent raising claim of ₹6782512/-. Apart from that, the appellant also claimed compensation for 37118 gunny bags left with the respondent—miller. It was also claimed that the miller converted 12542 bags of paddy into rice, for which he had no authority and, as such, an amount of ₹182274/- was also recoverable from the miller.

The claim petition was contested by the respondent who alleged that the agreement dated 15.10.2009 was a forged and fabricated document. It was alleged that the appellant has filed a false statement of accounts without producing the ledgers and accounts. It was also alleged that the paddy supplied to the respondent was defective PAU-201 variety, which could not meet the specification of the Food Corporation of India (FCI).

After going through the pleadings of the parties, the Arbitrator passed an award dated 29.10.2014 in favour of the appellant for an amount of ₹719848/- along with interest at the rate of 12% per annum and in addition to this the appellant was also awarded interest at the rate of 12% per annum on account of ₹5778512/- recovered by the appellant by sale of paddy from the date of filing of the petition till the date of recovery of this amount by public sale. However, claim of the appellant amounting to ₹284152/- was rejected.

Learned counsel for the appellant submits that the Additional District Judge has wrongly dismissed the objection petition without

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appreciating the facts, pleadings and the evidence brought on record. It is submitted that as per Clause 12 (a) of the Agreement, the respondent—Miller was required to make good the entire loss, if it fails to deliver the rice by the due date. It was also argued that the appellant was entitled to claim custom mill rate of rice and to claim interest on account of unauthorised conversion of paddy and further to claim 1% MST. The appellant relied upon the instruction issued by the government to claim guarantee amounting to ₹7431/- on undelivered rice and 1% MST. Since the respondent—Miller failed to honour the terms of the agreement, as such the appellant was entitled to claim the amount as raised in the objection petition.

I have heard learned counsel for the appellant and has gone through the case file.

The Arbitrator by award dated 29.10.2014 rejected the claim of the appellant amounting to ₹284152/- against which the objections were filed. In support of the claim, Babu Ram Senior Account Officer of the appellant herein appeared, who specifically stated in his evidence that there was no provision in the Agreement to claim quality cut or the guarantee fee. Furthermore, the government instructions issued from time to time, which were not made part of the agreement executed between the parties, can not be relied upon by the appellant so as to claim any amount. Thus, the appellant has failed to produce any convincing evidence so as to establish its claim. Learned counsel for the appellant has not been able to point out any perversity in the findings of fact recorded by the court below. I see no reason to interfere with the impugned order.

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The appeal is dismissed accordingly.

**15.1.2019** **(JAISHREE THAKUR)**
prem **JUDGE**

Whether speaking/reasoned Yes
Whether reportable No

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