

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

**FAO-1818-2020(O&M)
Date of decision: 12.03.2020**

Haryana State Warehousing Corporation

...Appellant

Versus

M/s Bansal Rice Mills and others

...Respondents

CORAM: Hon'ble Mr. Justice Deepak Sibal

Present: Mr. Padamkant Dwivedi, Advocate for the appellant.

Deepak Sibal, J. (Oral)

The present appeal, filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, the Act), is directed against the order dated 22.01.2020 passed by the Additional District Judge, Kurukshetra dismissing an application filed by the appellant under Section 34 of the Act.

The only argument raised by learned counsel for the appellant is that the Additional District Judge, Kurukshetra should have accepted the appellant's application and set aside the Arbitrator's Award as respondent No.1 was not entitled to be granted any relief for the sole reason that respondent No.1 had supplied the milled paddy to the appellant beyond the date which had been agreed to by the parties.

A perusal of the impugned order as also the grounds taken in the application filed by the appellant under Section 34 of the Act reveals that the above issue sought to be argued before this Court has neither been raised in the grounds nor taken up at the time when the matter was argued before the Additional District Judge, Kurukshetra. That being so, the afore issue is deemed to have been waived. It cannot be allowed to be raised before this Court in the first instance in the present appeal.

Even otherwise, it is not disputed that the District Manager of the appellant, who appeared before the Arbitrator as RW1, had admitted that respondent No.1 had milled and supplied in time the entire paddy which had been allotted to it under the agreement between the parties and that the milled paddy which had been supplied beyond the agreed date was that paddy which had been allotted by the appellant to the respondent beyond the agreed quota. The appellant's aforesaid witness had further admitted that such excess paddy was milled by the respondents after seeking due permission of the appellant.

In view of the above, no merit is found in the instant appeal and the same is hereby dismissed.

12.03.2020
gk

(Deepak Sibal)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes/No
Yes/No