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HIGH COURT OF CHHATTISGARH, BILASPUR**ARBR No. 13 of 2019**

M/s Anant Rice Industries (A Registered Partnership Firm Arang, Tahsil Arang Distict Raipur, Chhattisgarh Through Our Authorized Partner Loknath Agrawal, Aged About 67, Years, R/o Anant Rice Industries, Nh-53, Mahasamund Road, Arang, P.S. And Tahsil Arang, District- Raipur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Food, Civil Supplies And Consumer Protection Department, Mantralaya, Mahanadi Bhawan, Sector-19, Rakhi-1, Naya Raipur, Chhattisgarh...Pin- 492101
2. Chhattisgarh State Co-Operative Marketing Federation Limited Through Its Managing Director, 880, Civil Lines, Raipur, Tahsil Raipur, District- Raipur, Chhattisgarh. Pin- 492001
3. Food Corporation Of India Through Its General Manager, Fci Regional Office, Vidhan-Sabha Marg, Kapa, P.O.-Pandri, Raipur, Chhattisgarh. Email Gmcg.Fci@Gov.In
4. Collector Collectorate- Raipur, Tahsil And District- Raipur, Chhattisgarh. Pin- 492001

---- Respondents

For Petitioner	:	Mr. Rajkamal Singh, Advocate.
For State/Res. No.1 & 4	:	Ms. Akansha Jain, Dy. GA
For Res. No.2	:	Mr. Abhishek Chandravanshi, Advocate on behalf of Mr. S. C. Verma, Advocate
For Respondent No.3	:	Mr. B. P. Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****18/06/2021**

1. The present is an arbitration request application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (in short "Act of 1996"). The petitioner is a partnership firm running rice milling industry is also a member of the Chhattisgarh Pradesh Rice Millers Association, Raipur.

2. An agreement was entered into between the petitioner and respondent no.2 the Co-operative Marketing Federation. The agreement entered into between the parties was in respect of the collections of custom milling of paddy and delivery of the rice. The dispute between the parties seems to be the alleged change of location on the delivery of the rice after custom milling of the paddy. Originally as per the agreement custom milled rice was supposed to be delivered at the Depot at Mandir Hasaud. However, it is said that there were some technical difficulties that arose for delivering the rice at Mandir Hasaud on account of long halting time, operational difficulties and also on account of huge blockage at the depo at Mandir Hasaud. It was agreed between the parties, considering the operational difficulties of delivering rice at Mandir Hasaud to deliver the rice at Mahasamund instead of Mandir Hasaud.
3. It is the contention of the petitioner that the respondents had arbitrarily changed the delivery location for the custom milled rice, which has caused an additional financial burden upon the petitioner per lot, which was delivered at Mahasamund instead of Mandir Hasaud. According to the petitioner, they have been approaching the respondents for suitably compensating them for the additional cost which the petitioner incurred in the course of delivering the custom milled rice at Mahasamund instead of Mandir Hasaud, but the respondents have not adhered to the request of the petitioner.
4. Opposing the petition, the learned counsel appearing for the respondents on the other side submits that the fact that there has been a deviation of delivery of the custom milled rice is not in dispute, but in fact the change of location of delivery was on a request letter moved by the petitioner

themselves considering their personal inconveniences that they has expressed and which was agreed and accepted too by the respondents, therefore the respondents now cannot be saddled with the extra burden of additional charges for the delivery of the custom milled rice at Mahasamund instead of Mandir Hasaud. According to the counsel for the respondents, since the delivery of custom milled rice with a change of delivery location being at the behest of the petitioner themselves, there would be no arbitrable dispute and the alleged dispute raised by the petitioner is one which could be brought within the ambit of a dispute, since the change of destination was on their own request, which was agreed upon by the petitioner, therefore the arbitration application deserves to be rejected.

5. Having heard the contentions put forth on either side and on perusal of record, admittedly, the parties had entered into a contract, where the petitioner to be given paddy, which he in turn was supposed to get it milled and the custom milled rice was to be delivered at the destination agreed upon between the parties. As per the contract destination where the delivery was to be made was Mandir Hasaud, however there seems to be some inconveniences, difficulties and delay that was taken place for effective delivery being made at Mandir Hasaud, therefore the petitioner offered a suggestion of delivering the custom milled rice at the next nearest time point i.e. the depo at Mahasamund, which was agreed upon by the parties and as such the milled rice was accordingly delivered at Mahasamund instead of Mandir Hasaud. It is said that in the course of change of destination, the petitioner has incurred some extra monetary loss or extra monetary expenditure on account of transportation charges, which the petitioner has been claiming from the respondents and which

they in turn were either refusing or not considering. In terms of the agreement entered into between the parties clause 16 clearly speaks of settlement of dispute by way of an arbitration.

6. Having heard the nature of dispute and the claim put forth by the parties though the details of the claim made by the petitioner is not reflected in the documents enclosed in the application under Section 11(6) of the Arbitration Act. From the documents, it does appear that there has been a change in destination and there are also correspondences between the Department and the petitioner in respect of the same. Now, whether in the light of the correspondences or the request where the petitioner has made, will he be entitled for any extra cost that he has incurred in the course of change of destination. These are all facts and there has to be evidence led in this regard by all the parties to the claim. Once when the parties by way of a written agreement have decided for resolving of their dispute by way of an arbitration, it is always expected that the parties would resolve their dispute by way of arbitration alone. Now, whether the claim is bonafides and genuine is a matter and facts, which needs to be determined by the arbitration in the course of a proceedings conducted by the Arbitrator.
7. Given the entire facts and circumstances of the case and also taking note of the nature of dispute and the claim raised by the parties, in the opinion of this Court it would be more appropriate if the matter is referred to the Arbitrator for resolving the dispute between the parties. The counsel appearing for the petitioner as also the counsel for the Food Corporation of India agreed for appointment of an Arbitrator based at Raipur for

settlement of the dispute by the parties. The parties also suggested for appointment of a retired District Judge settled at Raipur in this regard.

8. Given the said facts, a consent was sought from Mr. Ganpat Rao, Retired District and Sessions Judge from the State of Chhattisgarh presently residing at Raipur, who has given his willingness for the same. In view of the same, in exercise of the powers conferred under Section 11(6) of the Act of 1996 under the authority given to this Court by the Hon'ble Chief Justice I hereby appoint Mr. Ganpat Rao, Retired District and Sessions Judge, House No.151, Banyan, Boriyakala, Housing Board Colony, In front of Shadani Darbar, Raipur, Chhattisgarh to act as an Arbitrator and arbitrate the dispute between the parties in accordance with the provisions of the Act of 1996.
9. The Registry is directed to communicate this order to Mr. Ganpat Rao to enter upon reference after complying with the provisions contained under Section 12(2) of the Arbitration and Conciliation Act, 1996 and to adjudicate upon the dispute as expeditiously as possible in accordance with the Act of 1996.
10. The remuneration of the Arbitrator shall be settled with the mutual consent by the parties.
11. The arbitration application accordingly stands allowed to the extent indicated herein above.
12. No order as to costs.

**Sd/-
(P. Sam Koshy)
Judge**

Ved