

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No.1003 of 2021

Date of Decision: April 28, 2021

R.K. Agro Poly Industries

.....Petitioner

versus

Food Corporation of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTALPresent: Mr. Mukand Gupta, Advocate
for the petitioner**Sudhir Mittal, J. (Oral)**

The petitioner is a manufacturer of LDPE covers meant for covering food grains stored in the open. It was awarded a contract for supply of certain numbers of LDPE covers of a particular specification. The same were supplied but were rejected on the ground that they did not conform to the specification sought. The contract of the petitioner was also terminated and a fresh tender was floated. This action was challenged by the petitioner by way of a civil suit instituted on 25.01.2021, which is pending. All the defendants have been served but written statements of some of them are awaited. The petitioner preferred an application dated 11.02.2021 under Section 151 CPC for directions to the official respondents i.e. Food Corporation of India to get its statement recorded in the Court that by virtue of the fresh tender, the LDPE covers being sought are of the same specification as supplied by the petitioner and that the price thereof is higher than that at which the petitioner had offered the product. This application has been dismissed by the learned trial Court vide the impugned order on the ground that asking defendants No.1 to 3 to suffer such a statement would have the effect of imposing condition upon them, which is contrary to the contract/tender now floated. It would also lead to multiplicity of litigation and would restrict defendants

No.1 to 3 from procuring a product, which conforms to the latest specification as amended. This would be contrary to the public interest.

Learned counsel for the petitioner has submitted that by virtue of the present tender, the defendants are seeking supply of LDPE covers of the same specification as supplied by the petitioner. The cost at which they are being supplied is also higher and the same would cause a loss to the State Exchequer. Thus, the trial Court was in error in dismissing his application.

Considering the stage of the suit, a pointed question was put to the learned counsel for the petitioner as to the rule of procedure, which permitted filing of an application as filed by the petitioner, however, he failed to give any satisfactory answer. Thus, the learned trial Court was justified in dismissing the application. It was also justified in concluding that the defendants cannot be forced to suffer any statement contrary to their interests.

For the aforementioned reasons, the revision petition has no merit and is dismissed.

April 28, 2021

Poonam Negi

[SUDHIR MITTAL]

JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No