

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1375 of 2021(O&M)
Date of decision: 25.11.2021.

Food Corporation of India and others

...Appellants

Versus

M/s Jagat Roller Flour Mills, Choti Nehar, Malikpur.

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sunish Bindlish, Advocate,
for the appellants.

ANIL KSHETARPAL, J (Oral)

The defendants assail the correctness of the concurrent findings of fact arrived at by the court below while decreeing the amount of Rs.60,80,141/- along with interest @ 8% per year.

Some facts are required to be noticed.

The appellants invited tenders for sale of 2000 MT wheat. The plaintiff (respondent herein) submitted tender to purchase the aforesaid wheat @ Rs.1170.15 per quintal and deposited 25% of the amount. As per the contract, the wheat was to be transferred from the custody of the appellants upto 24.07.2012. The plaintiff was only permitted to transfer 69.490 MT, whereas the officials of the appellants refused to supply the remaining quantity of wheat. Thereafter, the appellants refunded Rs.2,37,19,356/- to the plaintiff. A fresh tender was invited and again the plaintiff on submission of the new tender was permitted to purchase the wheat @ Rs.14,851/- per quintal.

The plaintiff filed a suit claiming damages for harassment by the defendants. In the meantime, a superior officer of the appellant-Corporation held that the supply to the plaintiff was wrongly withheld. In fact the supply to the plaintiff was suspended on a complaint of M/s Kartar Rolling Flour Mill Pvt. Ltd., Jalandhar, which was found to be baseless. Thus, the plaintiff (respondent herein) was never at wrong side of the policy of the Corporation. Keeping in view the aforesaid facts, both the courts have decreed the suit.

This Bench has heard the learned counsel representing the appellants and with his able assistance perused the paper book.

The learned counsel representing the appellants contends that the appellants have already refunded the remaining amount to the plaintiff and he has also been permitted to participate in the fresh tender. He further contends that the Executive Director of the Corporation while passing the order dated 06.11.2021, has opined that the plaintiff will not be entitled to get any interest due to the delayed refund of the plaintiff's amount. He contends that as the plaintiff did not challenge the correctness of the aforesaid order, therefore, the suit filed by the plaintiff was not maintainable.

The order passed by the Executive Director against the interest of the plaintiff is not an order passed under any statutory provision. It is in the nature of an executive/administrative order. The plaintiff has been harassed for sufficiently long time. The amount deposited by the plaintiff pursuant to the first tender was also refunded after unreasonable delay. The learned counsel representing the appellants failed to draw the attention of the Court to any fault or deficiency in the conduct of the plaintiff. In these circumstances, the executive order passed by the Executive Director of the

appellant-Corporation cannot be used to deny the benefit which is due to the plaintiff.

In view thereof, no ground to interfere in the concurrent findings of fact arrived at by the courts below, is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

November 25, 2021
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No