

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

CWP No.19890-2020

Date of Decision:27.01.2021

M/s Chandigarh Poultry Centre

...Petitioner

Versus

Union of India and others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present: Mr.Prateek Gupta, Advocate for the petitioner.

Mr. Satya Pal Jain, Additional Solicitor General of India with
Mr. Arun Gosain, Senior Govt. counsel for the respondents.

JASWANT SINGH, J. (ORAL)

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.]

The petitioner was awarded a contract, being a successful bidder, for supply of fresh vegetables to the ASC at different Depots for the period from 01.10.2020 to 30.09.2021 vide acceptance letter dated 23.09.2020 (P-2). Due to the alleged untimely and non supply of fresh vegetables, the respondents obtained the required vegetables from other source by invoking the risk and expense clause of the contract/agreement. A recovery notice qua the excess amount spent was issued while withholding payments for certain consignments relating to the said period.

The present writ petition has been filed, *inter alia*, seeking a mandamus to the respondent / military authorities (ASC) for permitting the petitioner to raise the bills for the items supplied as also release the

payments, while restraining them for implementing the consequences of risk and recovery clause of the Agreement.

Upon notice, learned senior counsel for the respondents appears and submits that the entire dispute raised herein would be a subject matter of Arbitration Clause No.23 of the Contract/Agreement and Arbitrator having been appointed in terms of the Agreement and the petitioner having joined the proceedings, nothing more would survive in the present writ petition since all the pleas raised herein would be a subject matter, if raised by the petitioner, before the Arbitrator

In response, learned counsel for the petitioner, faced with the situation that his client has already joined arbitration proceedings, concedes that nothing more survives in the present writ petition. No doubt, the pleas raised herein would be available before the Arbitrator.

In view of the aforesaid developments, the present petition is disposed of, as having been rendered infructuous.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

27.01.2021
mks

Whether speaking/reasoned:	Yes / No
Whether Reportable:	Yes / No