

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO no. 1620 of 2020 (O&M)
Date of Decision:08.03.2022

**Punjab State Cooperative Supply and Marketing Federation Limited,
Chandigarh**

.....Appellant

Versus

M/s Shree Balaji Rice Mills and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Reeta Kohli, Sr. Advocate
with Ms. Jashandeep Kaur Madaher, Advocate
for the appellant.

LISA GILL, J(Oral).

Appellant-Punjab State Cooperative Supply and Marketing Federation Limited, Chandigarh, has filed this appeal challenging order dated 23.11.2019, passed by the learned Additional District Judge, Chandigarh, whereby application under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'Arbitration Act') filed by the appellant for setting aside the Award dated 11.08.2016, passed by respondent no.2, has been dismissed.

Brief facts necessary for adjudication of the matter are that the appellant, which is a cooperative society registered under the Cooperative Societies Act, 1961, entered into an agreement dated 29.09.2004 with the respondent-miller for milling of paddy for the crop year 2004-2005. As per the said agreement, respondent no.1 had to mill the paddy and deliver the

specified quality of rice to Food Corporation of India (for short 'FCI') by 31.03.2005. Rice was admittedly delivered by respondent no.1 in the account of the appellant and acceptance note was duly obtained from FCI officials. However, notice dated 25.03.2013/06.04.2013 was issued by the FCI to the appellant that a sum of Rs.5,26,447/- has been deducted from their account for delivery of rice stocks by the respondent-miller found Beyond Rejection Level (for short 'BRL') at destinations. Accordingly, appellant issued notice dated 03.09.2013 to the respondent-miller to deposit the said amount as deducted by the FCI, but on the failure of the respondent-miller to do so, the matter was referred by the department to the Sole Arbitrator Sh. B.K.Srivastava, IAS (Retd.). The appellant set-forth a claim of Rs.5,26,447/- along with interest at the rate of 12% from 03.09.2013 till final payment.

Learned Arbitrator vide Award dated 11.08.2016, dismissed the claim petition while observing that the contract between the parties came to an end after delivery of the requisite quality to the FCI to its satisfaction with there being no violation of Clause 10 of the Agreement. It is further observed by the learned Arbitrator that Punjab Rice Procurement (Levy) order contains no provision which justifies the claim set up by the appellant after settlement of accounts between the claimant and respondent-miller. Respondent-miller, it is observed cannot be held responsible for any claim raised by the FCI on BRL ground after expiry of 8 years. The entire stock is stated to be with the FCI, which cannot be returned or restored to the respondent by the FCI in the same condition. Reference is also made to CWP no. 12537 of 2011 filed by the appellant against FCI, categorically opposing the deductions made by the FCI.

Aggrieved therefrom, the appellant filed objections under

Sections 34 of the Arbitration Act, which have been dismissed by the learned Additional District Judge, Chandigarh, vide impugned order dated 23.11.2019.

Aggrieved therefrom, present appeal has been filed by the appellant.

Learned senior counsel for the appellant vehemently argues that present is a case of unprecedented nature where FCI had conducted raids and found the rice to be BRL and therefore recovered the amount in question from the appellant. It is submitted that even if there was connivance on the part of the officials, the appellant was well within its rights to raise the claim once FCI issued notice dated 25.03.2013/06.04.2013. The claim then raised by the appellant was well within the period of three years. Therefore, there is no question of the claim being raised beyond the period of limitation. Learned Arbitrator, it is submitted has misdirected himself in passing Award dated 11.08.2016 and the learned Additional District Judge, Chandigarh has not appreciated the facts and circumstances while dismissing the appellant's petition under Section 34 of the Arbitration Act. It is thus prayed that this appeal be allowed.

I have heard learned senior counsel for the appellant and have gone through the file with her able assistance.

The sequence of events as narrated in the foregoing paras, is a matter of record and is not in dispute. Learned counsel for the appellant is unable to deny that the entire due quantity of rice was indeed delivered and acceptance report issued by the FCI within the time frame as stipulated in the Agreement dated 29.09.2004. Learned Arbitrator has duly reproduced Clause 10, 18 and 20 of the Agreement and has rightly rejected the claim set up by the appellant. Perusal of Award dated 11.08.2016 reveals that

opportunity was afforded to the claimant to even produce the Punjab Rice Procurement (Levy) Order 1983 or any other order or notification issued by the Government of India or the State Government, which binds the millers under custom milling agreements to compensate the Markfed in the event of FCI making deductions against the Markfed after the period of contractual obligations between the Markfed and the Miller has expired. However, no such provision could be brought forth. Learned Additional District Judge, Chandigarh, has correctly noted that the appellant even in CWP No. 12537 of 2011 had not pointed out any shortcoming whatsoever against the respondent-miller. It is a settled position of law that the Court in proceedings under Section 34 of the Arbitration Act, is not to act as an Appellate Authority in respect of an Award passed by an Arbitral Tribunal and scope of interference is very limited. There is no question of re-appraisal of the material on record and substitution of another view in place of that of the Arbitrator. There is indeed nothing on record to indicate that Award dated 11.08.2016 falls foul of Section 34 of the Arbitration Act.

Learned counsel for the appellant is unable to point out the existence of any ground which calls for setting aside of the impugned Award dated 11.08.2016 or any irregularity, illegality or infirmity in decision dated 23.11.2019 passed by learned Additional District Judge, Chandigarh.

No other argument has been raised.

Present appeal is accordingly dismissed with no order as to cost.

08.03.2022
s.khan

[LISA GILL]
Judge

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