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

CWP-11529-2017 (O&M)

Date of Decision: 20.07.2022

M/S SAT KARTAR RICE MI LLS

.... Petitioner

Versus

UNION OF INDIA AND ORS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. J.P.S. Sidhu, Advocate,
for the petitioner.

Mr. Rajesh Garg, Senior Advocate, with
Mr. Neha Matharoo, Advocate,
for respondent No.1-Union of India.

Mr. Pawan Sharda, Senior DAG, Punjab.

Mr. Jastej Singh, Advocate,
for respondents No.4 and 5.

JAISHREE THAKUR.J (Oral)

This is a petition that has been filed under Article 226/227 of the Constitution of India seeking a writ in the nature of Certiorari for quashing the impugned order dated 17.02.2017 (Annexure P-1) whereby the claim of the petitioner for 1% driage had been rejected, as Government of India had given 1% driage to all the Millers in Punjab vide letter dated 30.09.2015.

Learned counsel appearing on behalf of the petitioner would contend that in the year 2015-16, the petitioner was given 26719.88 quintal paddy and after deducting 1% driage (260.80 quintal) and against 67% due rice, the petitioner-Mill delivered 17474.078 quintal rice to FCI, however,

there was shortage of 253.502 quintals of rice, for which, the petitioner deposited the due amount of Rs.7,09,270/- with the respondents in time and thus, became eligible for allotment of paddy for KMS 2016-17, but the respondents are not giving the benefit of 1% driage to the petitioner.

Learned senior Advocate appearing on behalf of respondent No.1-Union of India would submit that the instant writ petition is not sustainable on account of the fact that within the policy, clause 19 would prescribe for arbitration of any dispute between the procurement agency and the Miller and, therefore, the petitioner herein ought to invoke arbitration clause and appointment of an Arbitrator. He would submit that similar issue already stands decided in CWP No.23099 of 2016 titled as “Satnam Agro Industries versus Union of India and Others”, on 03.05.2019, wherein, all matters which have a dispute between the procurement agency and the Miller have been referred for arbitration.

I have heard learned counsel for the parties and have also gone through the Custom Milling Policy 2015-16 and have perused clause 19 of the same, which is reproduced as under:-

“19. All the disputes and differences arising out of or in any manner touching or concerning this agreement whatsoever shall be referred to the sole arbitration of the Managing Director of the concerned agency or any person appointed by him in this behalf. There will be no objection to any such appointment that the person appointed is or was an employee of Food and Supplies Department, Punjab or the concerned agency or that he had to deal with the matter to which the contract relates and that in the course of his duties such an employee of the Food and Supplies Department, Punjab or the concerned agency had

expressed views on all or any of the matter in dispute or difference. The award of such arbitration shall be final and binding on the parties to this contract. It is a term of this contract that in the event of the Arbitrator being transferred or vacating his office or being unable to act for any reason, the Managing Director at the time of such transfer, vacation of office, death or inability shall appoint another person to act as Arbitrator. Such a person shall be entitled to proceed with reference from and the stage where it was left by his predecessor.”

In view of the fact that there is an arbitration clause, it would be appropriate that all disputes arising between the procurement agency and the Miller-petitioner, be it legal or otherwise, should be referred to the Arbitrator.

Consequently, the instant petition is disposed of and petitioner is relegated to appear before the Arbitrator, to be appointed by the Managing Director of the concerned agency on 19.09.2022, in terms of the decision rendered in CWP No.20885 of 2016, decided on 04.10.2016 and CWP No.23099 of 2016, decided on 03.05.2019.

(JAISHREE THAKUR)
JUDGE

20.07.2022
sanjeev

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