

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

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**CWP-4618-2023 (O&M)
Date of Decision: 16.03.2023**

M/S GAGAN TRADERS AND ANOTHER

... Petitioners

VERSUS

FOOD CORPORATION OF INDIA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Anurag Chopra, Advocate,
Ms. Vasundhara Asija, Advocate and
Mr. Akshat Dalal, Advocate
for the petitioners.

Mr. Krishan K Gupta, Advocate and
Mr. Harpreet Singh, Advocate assisted by
Mr. B. Srinivasan, General Manager, FCI
for respondent No.1.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed seeking issuance of directions to the respondents to release the interest on admitted delay in payment, which had been withheld by the respondent-Authorities.

The matter had come up on 09.03.2023 when the following order was passed:

“Learned counsel appearing on behalf of the petitioners Contractors with respondent-FCI contends that the petitioner had satisfactorily executed the works awarded against tender inquiry dated 16.07.2013. The No Dues Certificate was also issued vide letter dated 24.08.2016. The security deposit of the petitioner was also approved to be released vide the above letter. However, the same was still not released for some internal issues and for no fault of the petitioners. The respondents initiated an inquiry against the petitioners and vide order dated 27.03.2018

terminated the tenders given to the petitioners & ordered forfeiture of security deposit & Bank Guarantees.

Petitioners approached High Court vide CWP-8457 of 2018. The petitioners were relegated to approach Dispute Redressal Committee. The representation was dismissed by Dispute Redressal Committee vide order dated 06.07.2018 pending investigation by CBI. The total payment withheld was Rs. 8.5 crores approx. Petitioners were also black listed.

The said proceedings were challenged vide CWP-20468-2018.

During the pendency of above writ petition, C.B.I submitted a closure report as well. The respondent-F.C.I informed on 15.12.2022 that since closure report stands accepted, the F.C.I. has made recommendation to the Grievances Redressal Commission.

The FCI then informed on 25.01.2023 that Grievances Redressal Commission has taken a decision on 03.01.2023 to refund the entire withheld & forfeited amount within 15 days.

The petitioner claimed interest for amount wrongly withheld for such long period. The petition was however disposed of with liberty to the petitioners to claim interest as per law.

He contends that in view of Model Tender provision he submitted a claim for interest.

Counsel for the petitioner submitted that he would be satisfied if the Dispute Redressal Committee is directed to decide the claim of the petitioners

Notice of motion

Sh. K.K. Gupta, Advocate to whom an advance copy had been served, entered appearance and disputed stating that the claim cannot be awarded and there was no reason to ask the Dispute Redressal Committee to adjudicate the claim.

The Court thus required for the presence of the General Manager for the date fixed.

The Counsel for Food Corporation of India then submitted that the prayer of the petitioner may be allowed. The stance

adopted by the Food Corporation of India seems to be unfair and apparently the rigidity was being shown as bureaucratic arrogance. Such mindset pushes people towards unwanted litigation, breeds corruption and imposes humiliation on the citizens. The respondent ought to have redressed the issues at their own level as dispute resolution mechanism is extended to answer the grievances of the Contractors. The hierarchy cannot become the adjudicatory mechanism itself and decline the remedy provided under the tender. Besides, the moment, Court asked for the presence of the General Manager, Food Corporation of India, Counsel conceded that the prayer of the petitioners may be allowed. Invariably, a mischievous attempt is being made by the officers deputed to assist the Advocate representing Food Corporation of India. It has thus necessitated the presence of the General Manager, Food Corporation of India. The General Manager, Food Corporation of India shall thus remain present in the Court on the next date of hearing.

Adjourned to 16.03.2023”.

Learned counsel for the petitioner has restricted his prayer to refer the dispute to Grievances Redressal Committee in terms of the Clause XVIII Part (b) of the Model Tender Form.

Pursuant to the orders passed by this Court, Mr. B. Srinivasan, General Manager, Food Corporation of India is present in Court. He has informed that the representation submitted by the petitioner for referring his pending dispute to the Grievance Redressal Committee has already been sent to the concerned Committee and that an appropriate decision is to be taken by the said Committee.

In view of the above statement made by the General Manager, Food Corporation of India, no further grievance of the petitioner survives at this juncture.

Disposed of as not pressed at this stage.

Needless to mention that the Grievances Redressal Committee shall take a decision on the pending representation/claim of the petitioner in accordance with law after affording adequate opportunity of hearing to the respective parties.

16.03.2023.
rajender

(VINOD S. BHARDWAJ)
JUDGE

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