

CWP-25387-2019

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2024:PHHC:021118

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25387-2019

Date of Decision:14.02.2024

M/S SIRI GANESH RICE AND GENERAL MILLS

..... Petitioner

Versus

FOOD CORPORATION OF INDIA AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. R.K. Moudgil, Advocate
for the petitioner.

Mr. K.K.Gupta, Advocate
for the respondents.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondents to refund security deposited by the petitioner with respondents as earnest money for getting contract of milling paddy during 1995-97.

2. The case of the petitioner is that during 1995-97 it deposited security of Rs.1,25,000/- for the allotment of paddy. No written contract was executed between the parties. The dispute arose between the parties with respect to delivery of output i.e. rice. Matter travelled up to Supreme Court. The claim of respondent-FCI was rejected because there was no written agreement executed between the parties. In the order dated 10.05.2016 passed by Coordinate Bench of this Court in RSA No.2183 of 2011, it was noted that as per agreement, the miller was supposed to furnish security/advance and bank guarantee, however, there is no such

bank guarantee or security submitted by miller. The petitioner after dismissal of SLP filed by respondent-FCI has started claiming refund of security which he allegedly deposited with the respondent-FCI for the allotment of paddy.

3. Learned counsel for the petitioner submits that petitioner had deposited a sum of Rs.1,25,000/- as security, thus, he is entitled to refund of said amount, on the determination of contract executed between the parties.

4. Per contra, learned counsel for the respondents-FCI submits that there is no record with the respondent with respect to security furnished by petitioner. Matter relates to crop year 1995-1997 and petitioner has filed writ in 2019 after a delay of 22 years. The paddy was allotted to a partnership firm whereas present petition has been filed by a proprietorship concern.

5. I have heard arguments of both sides and scrutinized the record with their able assistance.

6. The petitioner is claiming refund of Rs.1,25,000/- and respondents are disputing on the ground of limitation as well as present status of the miller. As per respondent, the paddy was allotted to a partnership firm whereas present petition has been filed by a proprietorship concern. There is no document on record disclosing that all the assets and liabilities of the partnership firm have been taken over by petitioner as proprietorship concern. The refund relates to 1995-97 and a long litigation continued between the parties. The petitioner at that stage could ask for refund especially when respondent was claiming damages on account of short/non-delivery of rice, however, it opted to

remain silent and has filed present petition after more than 2 decades from the relevant period.

7. In view of above facts and circumstances, it comes out that present petition involves disputed questions of facts. Had there been clear case of refund, this Court could exercise its writ jurisdiction but in view of disputed questions of facts, this Court does not find it appropriate to invoke its writ jurisdiction under Articles 226/227 of the Constitution of India.

8. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

14.02.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>