$~35 & 38

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 04th October, 2024

\+ **W.P.(C) 13958/2024 & CM APPLs. 58424-58425/2024**

ANIL KUMAR MAGGU .....Petitioner
Through: Mr. Jeetender Gupta, Advocate.

versus

FOOD CORPORATION OF INDIA .....Respondent
Through: Mr. Manoj, SC with Ms. Aparna Sinha, Advocate.

\+ **W.P.(C) 13977/2024 & CM APPLs. 58480-58481/2024**

ANIL KUMAR MAGGU .....Petitioner
Through: Mr. Jeetender Gupta, Advocate.

versus

FOOD CORPORATION OF INDIA .....Respondent
Through: Mr. Manoj, SC with Ms. Aparna Sinha, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The present petitions challenge the notices dated 13th September, 2024, issued by the Food Corporation of India, terminating two separate contracts awarded to the Petitioner. These contracts were formalized through

distinct letters of award: one dated 18th May, 2023, in W.P.(C) 13958/2024, and the other dated 2nd June, 2023, in W.P.(C) 13977/2024, both issued by the Assistant General Manager (Contract) on behalf of the General Manager (Region) of Respondent No. 1. The contracts pertain to the Handling & Transport Contract at FSD Shaktinagar.

2. The Petitioner participated in tenders floated by the Respondent through the GeM portal for handling and transporting food grains and allied materials for a period of two years. Following the tender process, the Petitioner emerged as the successful bidder and was issued acceptance letters on 27th April, 2023 for GeM bid No. GEM/2023/B/3131029, and 1st May, 2023 for GeM bid No. GEM/2023/B/3135666, followed by contract/award letters dated 18th May, 2023, and 2nd June, 2023, respectively. However, on 13th September, 2024 the Respondent terminated both contracts through two notices corresponding to the distinct contracts, effective 30 days from issuance, i.e., 13th October, 2024. For ease of reference, the termination notice annexed in W.P.(C) 13958/2024 is extracted below:

> *"Dated: Signed Date* **(By E-mail)**
>
> *M/s Anil Kumar Maggu,*
> *H.No. 416, Sector-9*
> *Faridabad, Haryana,*
> *Email: anilkumarmagu@gmail.com*
> *Mob.: 9212505672*
>
> ***Subject:*** *Notice regarding termination of the Handling & Transport Contract at FSD Shaktinagar against GeM bid no: GEM/2023/B/3131029 dated 14.02.2023.*
>
> ***Ref:*** *1.NIT & MTF of tender against GeM bid no: GEM/2023/B/3131029 dated 14.02.2023.*
> *2. Award letter dated 18.05.2023.*

Sir,

In reference to subject cited above, it is informed that you were awarded the Handling & Transport Contract at FSD Shaktinagar under Divisional Office Shaktinagar against GeM bid no: GEM/2023/B/3131029 dated 14.02.2023, vide this office letter dated 18.05.2023 for the period of two years (20.05.2023 to 19.05.2025).

Further, as per the terms and conditions Governing Contracts of NIT and MTF of tender under point VIII (ii) i.e Period of Contract reiterated as under:

"The General Manager reserves the rights to terminate the contract at any time during its currency without assigning any reasons thereof by giving Thirty Days' Notice in writing to the Contractor at the notified address and the Contractor shall not be entitled to any compensation by reason of such termination. The action of the General Manager (Region) under this clause shall be final, conclusive and binding on the Contractor."

Hence, in accordance with above clause of MTF, the Competent Authority has decided to exercise the right to terminate contract of the Handling & Transport Contract at FSD Shaktinagar under Divisional Office Shaktinagar with you due to administrative reasons. The termination will be effective after thirty (30) days from the date of this notice.

The decision of General Manager (Region) in this regard will be final, conclusive and binding upon you. You are requested to ensure necessary compliance within stipulated period."

3. The Petitioner, aggrieved by the termination notices, has submitted a representation dated 18th September, 2024, to the Grievance Redressal Committee of the Respondent-Corporation, requesting a review and recall of the termination. Despite this submission, no response has been forthcoming from the Respondent. Consequently, the Petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India, 1950, seeking to set aside the termination notices. Additionally, the Petitioner requests a stay on the termination.

4. The Petitioner contends that the termination notices were issued arbitrarily, without adhering to due process or providing the Petitioner an opportunity to be heard, thereby breaching the principles of natural justice. The Petitioner asserts that this action infringes upon their fundamental rights guaranteed under Articles 14 and 19 of the Constitution of India. Furthermore, they argue that Clause VIII of the contract's Terms and Conditions is inherently arbitrary and unilateral. Invoking this clause without any compelling reason goes against the principles of natural justice, public policy, and public interest. As an instrumentality of the State, the Respondent is bound to act in a manner that is reasonable and rational. Any rights conferred upon citizens, such as those vested in the Petitioner, cannot be revoked arbitrarily or capriciously but must be based on lawful and relevant grounds that best serve public interest. The Petitioner further asserts that they have diligently and responsibly fulfilled all obligations under the contracts since the date of their award. Notably, the termination notices do not cite any performance issues or contractual breaches on the part of the Petitioner. Instead, the notices vaguely refer to "administrative reasons" without providing any substantive explanation, justification, or policy basis for this abrupt termination. The Petitioner cannot be arbitrarily deprived of the benefits arising from a legitimate contract lawfully granted for a fixed term.

5. The Petitioner also emphasizes that this sudden termination will result in significant financial loss due to the investments made and manpower hired in furtherance of their contractual obligations. Furthermore, the contract involves the employment of approximately 50-60 workers whose livelihood depends on its continued execution. A premature termination will

not only lead to their unemployment but will also adversely impact the welfare of their families thereby warranting the Court's intervention.

6. The Court has carefully examined the facts and contentions presented by the Petitioner but finds no basis to grant the relief sought. In the Court's view, the writ petition is fundamentally misconceived and thus, not maintainable. The crux of the issue is a contractual dispute involving questions of fact. While it is well settled that writ jurisdiction can be invoked in matters of contractual disputes under certain circumstances—particularly when public law principles or violations of fundamental rights are involved—the present case does not fall within such an exception. Here, the Petitioner is essentially seeking to invalidate a specific contractual clause that was mutually agreed upon by both parties, a request this Court finds untenable. The letters of award refer to the terms and conditions of the NIT and MTF which forms the basis of the contract between the parties. Clause VIII extracted in the impugned termination notices, grants the Respondent the right to terminate the contract within 30 days' notice for "administrative reasons". This is a condition that the Petitioner willingly accepted while entering into the contract. The Court cannot intervene to strike down a clause solely because it operates unfavourably against one party in hindsight. Contracts are built on the foundation of mutual consent, and the Court's role is not to rewrite contracts or invalidate clauses unless they are shown to be unconscionable, illegal, or violative of fundamental rights. In the present case, the Petitioner has not demonstrated how Clause VIII fails any of these tests. Therefore, the relief sought essentially asks the Court to override the contractual autonomy of the parties is a proposition this Court cannot endorse.

7. The Court's view is also based on wording of the Clause VIII of the contract, which explicitly allows the Respondent to terminate the contract by providing thirty days' notice, without any obligation to furnish reasons. This unambiguously characterizes the contract as inherently determinable at the discretion of the Respondent. In ***Rajasthan Breweries Ltd. v. Stroh Brewery***,[1] the Division Bench of this Court observed that a private commercial contract may be terminated without assigning any reason, even if there is no specific clause permitting such termination. The Bench clarified that the aggrieved party's remedy in such scenarios, should the termination be found unlawful, lies in seeking compensation for wrongful termination rather than specific performance of the contract. This principle has been reaffirmed in subsequent decisions of this Court, emphasising the well-established legal position that a party cannot compel the other to continue a commercial relationship against its will, particularly when the contract includes a termination clause. Therefore, the Petitioner's attempt to challenge the validity of the termination clause itself is legally untenable.

8. Furthermore, in the Court's view, if the Petitioner contends that the termination was carried out in an arbitrary manner, their remedy lies in seeking damages or specific relief in a competent Civil Court, rather than invoking the writ jurisdiction of this Court. This Court is not the forum for adjudicating purely private contractual disputes unless there is a clear case of violation of constitutional or public law principles, which the Petitioner has failed to establish. Therefore, the Court finds no merit in the plea to strike down Clause VIII of the contract and setting aside the termination

---

[1] 2000 SCC OnLine Del 481

notices.

9. The Petitioner further challenges the termination on grounds of arbitrariness, citing the Supreme Court's judgment in ***Subodh Kumar Singh Rathour v. The Chief Executive Officer and Ors***.,[2] which emphasizes the sanctity of contracts and the importance of stability in commercial relationships. However, upon careful scrutiny, it becomes clear that the facts and circumstances in ***Subodh Kumar Singh Rathour*** are not analogous to the present case, and thus, reliance on this decision is misplaced.

10. In ***Subodh Kumar Singh Rathour***, the issue revolved around the abrupt cancellation of a tender even after the issuance of work orders. The cancellation was not based on any contractual provision but rather on vague assertions of a "technical fault" in the tender process, which the Court found to be arbitrary. Importantly, the cancellation in that case was not founded in any clause within the contract that permitted such a termination. Paragraph No. 60 of the judgment particularly notes:

> *"60. Now coming to the facts of the case at hand, the appellant has challenged the cancellation of the tender at the instance of the respondent on the ground of being manifestly arbitrary and influenced by extraneous considerations. It is evident from the notice of cancellation dated 07.02.2023, that the tender was not terminated pursuant to any terms of the contract subsisting between the parties, rather, the respondent 'cancelled' the tender saying that there was technical fault in the tender that was floated."*

11. In contrast, the present case involves the termination of an existing contract, based on a specific clause mutually agreed upon by the parties. The contract here was awarded, performed for a significant period, and then terminated under Clause VIII of the contract, which explicitly grants the

[2] 2024 SCC OnLine SC 1682

Respondent the right to terminate without assigning any reasons, upon giving thirty days' notice. This is not a situation where termination arose from arbitrary or extraneous reasons. Instead, the termination is based on a specific term of the contract, which the Petitioner was fully aware of when entering into the agreement. Furthermore, in ***Subodh Kumar Singh Rathour,*** the Supreme Court addressed the lack of due process and transparency in cancelling the tender, an aspect absent in the present dispute. Here, the Respondent's right to terminate "without assigning any reasons" is embedded within the contract. While the Petitioner may view this clause as unilateral or harsh, it was a condition they agreed to from the outset. Therefore, the attempt to draw a parallel with ***Subodh Kumar Singh Rathour*** falters, as the Petitioner here cannot assert that the termination was "manifestly arbitrary". The Respondent merely exercised its contractual rights as explicitly provided in the agreement.

12. As for the Petitioner's request for an interim stay of the termination notice, the Court notes that the contract in question is inherently a determinable contract. Granting interim relief in such a scenario would effectively amount to restoring a contractual relationship that has already been terminated in accordance with its terms. It is well-established that the courts should exercise caution when asked to reinstate a contract, particularly one that has a clear termination clause mutually agreed upon by the parties. In the present case, granting an interim stay would disrupt the contractual autonomy of the Respondent, which had expressly reserved the right to terminate the contract without providing specific reasons. Moreover, allowing the contract to continue until the Petitioner's representation is decided by the Respondent's Grievance Redressal Committee would, in

effect, undermine the very nature of the termination clause, which has been provided to allow the Respondent to exit the contract with appropriate notice. In these circumstances, the Court finds no compelling reason or extraordinary situation that would justify judicial intervention to direct the *status quo ante* of a contract that has been terminated. Thus, the plea for interim relief lacks merit and must be rejected.

13. In light of the above, the present petitions, along with pending application(s), if any, are dismissed.

SANJEEV NARULA, J

OCTOBER 4, 2024/as