

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(271-2)

ARB-187-2020 (O&M)

Date of decision:- 16.01.2024

M/s Bharat Rice Mill

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Mukesh Yadav, Advocate for
Mr. Deepak Goyal, Advocate for the petitioner.

Mr. Sharad Aggarwal, Advocate for the respondents.

SUVIR SEHGAL, J. (ORAL)

CM-9567-CII-2020

1. Exemption, as prayed for, is granted.
2. Application is allowed.

Main case

1. Instant petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short "the Act") for appointment of a sole Arbitrator to adjudicate the disputes arising out of agreement dated 15.10.2019, Annexure P-1, entered into between the petitioner and the Governor of Haryana, acting through the District Food & Supplies Controller.

2. Although, State counsel has not filed an affidavit in deference to the previous order passed by this Court, but he has categorical instructions to state that notice dated 02.09.2020, Annexure P-3, whereby the petitioner claims to have invoked the arbitration clause has not been served upon DFSC-respondent No.3. He has also invited the attention of the Court to the reply filed by the respondents, wherein a similar stand has been taken. It is

his argument that although the agreement, Annexure P-1, between the parties is not disputed, yet as the respondent was never served with a notice under Section 21 of the Act, present petition is not maintainable.

3. I have heard counsel for the parties and considered their respective submissions.

4. A perusal of notice, Annexure P-3, upon which reliance has been placed by the petitioner, shows that it has been addressed to the Managing Director, Haryana State Ware Housing Corporation, Panchkula, and its copy has been sent through its District Manager at Ambala. It cannot be disputed that the Haryana State Ware Housing Corporation is not a party to the agreement, Annexure P-1.

5. In **ARB-324-2018** titled as “**M/s Veer Agro Foods Versus State of Haryana and others**”, decided on 12.01.2024, this Court has held that notice under Section 21 of the Act is a sine qua-non for initiating proceedings under Section 11 of the Act and in case, such a notice is not served upon the respondents, arbitration proceedings cannot commence. Counsel for the petitioner is not able to satisfy the Court as to whether the notice invoking the arbitration clause, which is a pre-requisite condition for filing a petition under Section 11 (6) of the Act, has ever been served upon the respondents. In its absence, the prayer made in the petition cannot be acceded to.

6. As a result of the aforesaid reason, there is no merit in the petition, which is hereby dismissed.

16.01.2024

Kamal

(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No