

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

CARBC No.51 of 2025

Reserved on:- 04.12.2025

Decided on 29th December 2025

**State of Himachal Pradesh through Secretary HPPWD HP
Secretariat, Shimla.**

...Objectors

Versus

Sh. Rajesh Thakur

...Respondent

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

¹Whether approved for reporting?

**For the petitioner: Mr. Rupinder Singh Thakur,
Additional Advocate General**

**For the respondents: Mr. J.S. Bhogal, Senior Advocate, M/s
Srishti Verma, Satish Sharma and
Swati Verma, Advocates.**

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has prayed for
the following relief:-

*"It is, therefore, respectfully prayed that in
view of the reasons and grounds stated above,
these objections may kindly be allowed and
award may kindly be set aside in the interest of
justice."*

2. The petitioners have assailed the award passed by
the learned Arbitrator, in terms whereof, the following relief has

been granted to the claimants.

“In view of the above, I award 53,70,000/- in favour of the claimant and against the respondent with interest thereon @ 6% per annum from 16.12.2010 to the date of award. I also awarded a sum of Rs.25,000/- as cost of litigation in favour of the claimant and against the respondent.”

3. The case of the petitioners is that the work of Tonda Sher Tandula Road under NABARD RIDF-IX Phase-I Km 0/0 to 11/0 Removal of formation deficiencies from Km 0/0 to 11/975, 8/975 to 11/0 and 5/7 mtr. wide formation cutting from Km. 1/975 to 8/540 was awarded to the claimant/contractor Sh. Rajesh Thakur, vide letter dated 25.08.2005 for an amount of Rs.54,79,471/-. A formal agreement was executed between the parties. The date of start of work was to be reckoned from 15th day after the issuance of the award letter. The stipulated date of the start of the work was 09.09.2005 and date of completion was 08.09.2006. In terms of the agreement, contractor was required to handed over 13486.30 cubic meter quantity of useful material such as stones, single aggregate and slates to the other party, failing which, recovery @ Rs.170/- per cubic meter was agreed to be recovered from the contractor.

According to the petitioners, during the execution of the work, the contractor made default in staking the useful material and as a result thereof, an amount of Rs.3 lac was withheld from the first running bill of the contractor. As the contractor failed to comply with the contractual obligations, amounts stood further recovered from his running bill and in this backdrop, a dispute was raised by the learned Arbitrator and learned Arbitrator was appointed by this Court. The matter was referred to the learned Arbitrator, who, in terms of the impugned award has allowed the claim of the contractor, in terms of the relief granted to him quoted by me hereinabove.

4. Learned Additional Advocate General argued that the award under challenge was not sustainable in the eyes of law for the reason that the Arbitrator traveled beyond the scope of the agreement and erred in appreciating the statement of claims and response filed thereto in the correct perspective. Learned Additional Advocate General also argued that the Arbitrator had relied upon a photocopy of certificate marked as C-1, produced before the learned Arbitrator without appreciating that the original of the same was never produced

before the learned Arbitrator and the award thus being based on fictitious certificate was liable to be set aside as the learned Arbitrator was swayed by the said certificate, which renders the award to be against the public policy. Learned Additional Advocate General also argued that the terms of the contract agreement were violated with impunity by the claimant and this was pointed out before the learned Arbitrator in the response filed to the claim petition, yet, as these aspects of the matter were completely ignored by the learned Arbitrator, same makes the award perverse and not sustainable in law. Learned Additional Advocate General also argued that the counter claim of the objector was not correctly appreciated, the admissions on the part of the Contractor itself on the issue of the alleged non-availability of valuable material on the spot were ignored by the learned Arbitrator and on these counts, it was prayed before this Court that the award be set aside.

5. On the other hand, learned Senior Counsel for the respondent argued that the award passed by the learned Arbitrator being clearly borne out from the record of the case, calls for no interference under Section 34 of the Arbitration and

Conciliation Act. Learned Senior Counsel submitted that otherwise also the scope of interference under Section 34 was very limited and the parameters laid down by the Hon'ble Supreme Court of India on the basis whereof an award can be interfered were not demonstrated to be existing in the present case by the State. Learned Senior Counsel further submitted that in the light of the fact that the award was based on the respective pleadings of the parties and correct appreciation of evidence, the petition being devoid of any merit was liable to be dismissed.

6. I have heard learned Additional Advocate General and also learned Senior Counsel for the respondent.

7. Before proceedings further, this Court would like to dwell upon the scope of Section 34 of the Arbitration and Conciliation Act in the light of the law as it stands today on the subject:-

Hon'ble Supreme Court of India in ***UHL Power Company Limited vs. State of Himachal Pradesh, (2022) 4 Supreme Court Cases 116***, *inter alia*, has been pleased to hold that the jurisdiction conferred on Courts under Section 34

of the Arbitration and Conciliation Act is fairly narrow and when it comes to the scope of an appeal under Section 37 of the Arbitration and Conciliation Act, the jurisdiction of an appellate Court in examining an order, setting aside or refusing to set aside an award is all the more circumscribed. Hon'ble Supreme Court has held that if there are two plausible interpretations of the terms and conditions of the contract, then, no fault can be found, if the learned arbitrator proceeds to accept one interpretation as against the other. Hon'ble Supreme Court has referred to its earlier judgment passed in ***Dyna Technologies (P) Ltd. Vs. Crompton Greaves Ltd. (2019) 20 SCC 1***, in which Hon'ble Supreme Court was pleased to hold that Section 34 of the Act limits a challenge to an award only on the grounds provided therein or as interpreted by various Courts and arbitral awards should not be interfered with in a casual and cavalier manner, unless the Court comes to a conclusion that the perversity of the award goes to the root of the matter without there being a possibility of alternative interpretation which may sustain the arbitral award. Hon'ble Supreme Court further held that Section 34 is different in its approach and cannot be

equated with a normal appellate jurisdiction. The mandate under Section 34 is to respect the finality of the arbitral award and the parties autonomy to get their dispute adjudicated by an alternative forum as provided under the law. Hon'ble Supreme Court has further held that if the Courts were to interfere with the arbitral award in the usual course on factual aspects, then the commercial wisdom behind opting for alternative dispute resolution would stand frustrated.

8. Coming to the facts of this case, a perusal of the award demonstrates that the claim of the Contractor before the learned Arbitrator was that he was a Class "A" Contractor, who was awarded the work in hand for a total cost of Rs.54,79,471/-. The time of completion of the work was one year. According to the claimant he had made an arrangement of the men, machinery and material for the execution of the work, but, the employer wrongly deducted an amount of Rs.3,00,000/- from the first and second running bills which were payable to the claimant and though an amount of Rs.40,00,000/- was released in his favour, yet, balance amount of Rs.54,00,000/- not yet released. On the other hand, the

stand of the employer before the learned Arbitrator was that the work was not done by the Contractor to the extent pleaded and after the payment of third running bill, the claimant had stopped the execution of the work and thus, the claimant was not entitled for the amount as was claimed in the claim petition.

9. On the basis of the pleadings of the parties, learned Arbitrator framed the following issues:-

1. "Whether the claimant is entitled to the claim, as prayed? ...OPC.
2. Whether the claimant is entitled for the interest on the payments due to him, if any? ...OPC.
3. Whether the claim petition is barred by limitation? ...OPR.
4. Relief."

On the strength of the evidence which was led by the parties in support of the respective contentions, the issues were decided as under:-

Issue No.1 :	Yes
Issue No.2 :	Yes
Issue No.3 :	No

10. While answering issue No.1 after discussing the respective contentions of the parties as also the evidence led by them, learned Arbitrator returned the findings that evidence on record demonstrated that upto second running bill, the gross payment was made only to an extent of Rs.33,65,126/- and after the payment of this amount, an amount of Rs.16,46,139/- was payable to the claimant, which was adjusted towards non staking of stones and nothing was paid to the claimant. Learned Arbitrator held that same was bad and the claimant was entitled for the said amount. Learned Arbitrator also held that it stood proved from certificate C-1 that the claimant had executed work to the tune of Rs.90,70,000/- against the awarded cost of Rs.54,79,471/-. Learned Arbitrator also held that this certificate established that the value of the work done by the contractor was 90,70,000/- and an amount of Rs.38,89,947/- was payable to the claimant after deducting an amount of Rs.51,80,053/- which was already paid.

12. As far as the counter claim is concerned learned Arbitrator held that the employer could not prove any merit in the counter claim. Thereafter, learned Arbitrator awarded

interest 6% on the awarded amount in favour of the claimant in terms of the award.

13. This Court is of the considered view that in the light of the fact that the learned Arbitrator has passed the award after taking into consideration the respective contentions of the parties as well as the evidence led before the learned Arbitrator by the parties, there is no occasion for this Court to intervene in the matter. This Court does not concur with the submissions of the learned Additional Advocate General that the award was perverse as learned Arbitrator relied upon a fictitious certificate. The certificate, which finds mention as C-1 cannot be termed to be a fictitious certificate as it is evident from the award itself that this was not the stand of the present petitioner before the learned Arbitrator that the certificate was a fictitious certificate. Other findings, being findings of fact, also call for no interference by this Court under Section 34 in the light of the law declared by the Hon'ble Supreme Court of India. It could also not be demonstrated during the course of the hearing of this case as to which portion of the award was based on misreading of the evidence or pleadings of the parties or which

part of the award was beyond the terms of the agreement entered into between the parties.

14. Therefore, in light of the above observations, as this Court does not find any occasion to interfere with the award in issue, the petition is dismissed. No order as to costs.

15. Pending miscellaneous applications, if any, also stand disposed of.

(Ajay Mohan Goel)
Judge

December 29, 2025
(*Vinod*)