

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

Civil Revision No.2709 of 2001 (O&M)

Date of decision: 22.07.2015

The Punjab State Cooperative Supply & Marketing Federation
Limited.

... Petitioner

versus

M/s R.K. Rice & General Mills, Sahnewal, District Ludhiana and
others.

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Karan Gupta, Advocate,
for Mr. Rakesh Gupta, Advocate,
for the petitioner.

Mr. Sumeet Mahajan, Senior Advocate,
with Mr. Amit Kohar, Advocate,
for respondents 1 to 3.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The revision petition is against the dismissal of the petition filed under Section 20 for filing the original agreement of arbitration and for making reference to arbitration under the Arbitration Act of 1940. The application was filed by the Punjab State Cooperative Supply & Marketing Federation on a plea that the contract which the defendant-Mill had entered with the plaintiff had failed in the sense that the obligation undertaken to make a payment to the petitioner through cheques was flouted by the respondent in

withdrawing the mandate for payment to the bank by countermanding the cheque and, therefore, there was a dispute arising out of the contract that would require an adjudication by the Arbitrator.

2. The application was resisted by the respondent on two grounds: one, the petition had been presented by the Federation through the Branch Manager and the copy of the resolution of the execution petition of Markfed only allowed for the presentation of the petition by the Managing Director or the Additional Managing Director. The other condition was that there was literally no dispute between parties and there was nothing for arbitral reference. The court below allowed the objections to prevail and dismissed the petition and hence, the revision.

3. The counsel would refer me to the copy of the resolution that reads as under:-

Decision	
Resolved to approve to delegate the powers to sue and to be sued on behalf of the Federation and to engage Advocates, sign petitions, etc. to different Officers hereunder:-	
i) To sue and to be sued on behalf of the Federation.	M.D. and Additional Managing Directors.
ii) Power to sign power of attorneys, petitions, plaints and written statements.	M.D., AMDs, CM(P), Law Officer, Distt. Managers of the concerned District, General Managers/Managers of the Plants/Units concerned, OSD (Cotton), Bhatinda and Liaison Officer, Markfed, New Delhi.
iii) Power to engage advocates at different levels to different officers.	MD, AMDs, CM(P), Law Officer, District Managers of the concerned District General Managers/Managers of the Plants/Units concerned, OSD (Cotton) Bhatinda and Liaison Officer, New Delhi subject to the condition that they would engage advocates from the approved panel of advocates and at the rates of fee of the advocates at different levels as may be fixed by the Managing Director from time to time. Further resolved that MD shall have powers to issue directions in regard to all these matters and to delegate the powers mentioned at (ii) & (iii) above to any other officer of the Markfed and to withdraw these powers from any of those officers.

4. The resolution makes reference to the Managing Director, Additional Managing Director as competent and the said resolution also sets out other clauses (i) persons who are competent to sue and to be sued on behalf of the Federation; (ii) the power to sign the power of attorneys, petitions, complaints and written statements; (iii) the power to engage advocates as persons who are competent. The General Managers/Managers of the Plants/Units concerned as well as the MDs/AMDs, Law Officers and the District Managers are so empowered subject to the condition that they would engage advocates from the approved panel of advocates and at the rates of fee of the advocates at different levels as may be fixed by the Managing Director from time to time. It is also contended that the countermanding of the cheques and the non-payment of cheques ought to be understood as creating a dispute where the liability has not been discharged and, therefore, the court below was in error in stating that there was dispute between parties.

5. I find the reasoning of the court below is wholly erroneous. The extract of the resolution which is reproduced makes it clear that a Branch Manager surely has an authority to represent the federation. The mere fact that the respondent denied that there was no subsisting dispute cannot cast away the unresolved issue, for, if anyone of the parties finds that there is an enforceable claim and the other parties say that there is no dispute or claim possible, the

same could be adjudicated only before the Arbitrator. The court ought to have made the reference to the Arbitrator in the manner contemplated. The dismissal of the petition was erroneous. I set aside the order, take the arbitral agreement filed before the court below on file and direct the appointment of an Arbitrator in the manner contemplated by the arbitral agreement. Either one of the parties may secure the appointment of the Arbitrator in the manner contemplated under the provisions of the arbitral agreement.

6. Civil revision is allowed on the above terms.

(K.KANNAN)
JUDGE

22.07.2015
sanjeev