

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

FAO No.2747 of 2007(O&M)
Date of decision : 12.08.2015

M/s Madan Rice and General Mills

...Appellant

Versus

Punjab State Civil Supplies Corporation and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Parvez Chugh, Advocate for the appellant.

Mr. Deepak Sabharwal, Advocate for the respondents.

AMIT RAWAL, J. (Oral)

CM No.19565-CII of 2013

This application is not pressed at this stage. Since award has been set aside vide this order, no cause survives in the application.

Present application has become dismissed as infructuous.

Main Case

The grievance of the appellant before this Court in appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter to be referred as 'the Act') is that the claim submitted by the PUNSUP

squarely falls within the expected Clause 22 and, therefore, Arbitrator did not have jurisdiction and this plea was specifically taken in the reply filed before Arbitrator and yet Arbitrator proceeded to adjudicate the matter and granted interest @ 21% p.a. and 30% p.a. For the sake of brevity, the excepted clause of the agreement dated 05.10.1999 reads thus:-

“22. Arbitration: All the disputes and differences arising out of or in any manner touching or concerning this agreement whatsoever (except as to any matter the decision of which is expressly provided for in the contract) shall be referred to the sole arbitration of the Managing Director or any person appointed by him in this behalf. It will be no objection to any such appointment that the person appointed is or was an employee of the PUNSUP or that he had to deal with the matters in which the contract relates and that in the course of his duties such an employee of the PUNSUP had expressed views on all or any of the matters in disputes or difference. The award of such Arbitration shall be final and binding on the parties to this contract. It is a term of this contract that in the event of the arbitrator being transferred or vacating his office dying or being unable to act for any reasons, the Managing Director at the time of such transfer, vacation of office, death or inability shall appoint another person to act as an Arbitrator, Such a person shall be entitled to proceed with reference from the stage where it was left by his predecessor.

Provided further that any deemed for arbitration in respect of any claim(s) of the miller, under the contract shall be in writing and made within one year of the day of completion or expiry of the period contract. If the deemed is not made within the period the claim(s) of the miller shall be deemed to have been waived off and absolutely barred and

released of all liabilities under the contracts in respect of these claims.

The cost in connection with arbitration shall be in the discretion of the arbitrator who may make suitable provisions for the same in his award.

Subject as afore said, the arbitration and reconciliation act 1996 shall apply to the arbitration providing under this clause.”

On going through the provision of aforementioned Act, the claim submitted by the PUNSUP/respondent squarely falls within the purview of excepted clause, therefore, Arbitrator could not have jurisdiction to decide the reference. This aspect has also not been noticed by the Principal Court while rejecting objection filed by the appellants.

Since, dispute between the parties to the lis squarely falls within the provision of Clause 22 (Supra), I deem it appropriate to set aside the award dated 08.04.2003 & order dated 03.01.2007 passed by the District Judge, Ferozepur and refer the matter to the Managing Director to decide the dispute as expeditiously as possible preferably within a period of 8 months.

Parties through their counsel or parties in person are directed to appear before Managing Director on 09.09.2015.

Appeal stands disposed of.

12.08.2015

pawan

**(AMIT RAWAL)
JUDGE**