

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

F.A.O.No.735 of 2006 (O&M)

Date of Decision: October 28th, 2015

M/s Monga Enterprises, Bathinda Road, Goniana Mandi, Bathinda

...Appellant

Versus

**Punjab State Civil Supplies Corporation Limited (PUNSUP), Chandigarh &
others**

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

Present: None for the appellant.

**Mr.Deepak Sabharwal, Advocate,
for the respondent-PUNSUP.**

AMIT RAWAL, J. (Oral)

The challenge in the present appeal is to the order dated 13.10.2005, whereby the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short “1996 Act”) against the award dated 30.8.2000, have been dismissed.

There is no representation on behalf of the appellant. The appeal is of the year 2006. I proceed to decide the appeal on merits as the name of the counsel for the appellant had been circulated on the notice board.

In pursuance to the dispute which has arisen owing to the

agreement dated 6.10.1997 entered into between the parties with regard to the supply of the paddy, matter was referred to the arbitrator. Before the Arbitrator, appellant appeared and again proceeded *ex-parte*, therefore, the *ex-parte* award dated 30.8.2000 came to be passed and the Objecting Court dismissed the objections as none of the objections were within the parameters of said Section 34 of 1996 Act.

The approach of the appellant before the Arbitrator was callous, much less, tardy. Despite having served, appeared and again absented, as noticed by the Objecting Court, the appellant did not choose to contest the claim of the PUNSUP. The operative part of the order passed by the Objecting Court, thus, reads as under:-

“ISSUE NO.1

8) *Learned counsel for the petitioners has submitted that petitioners appeared before the Arbitrator on 11.5.2000 and the exparte proceedings were set-aside against the petitioners. The petitioners were again proceeded exparte on 1.6.2000 by the Arbitrator. According to Section 24(2) of the Arbitration and Conciliation Act, 1996, the Arbitrator is required to give notice for each and every date of hearing. No notice in respect of proceedings dated 6.7.2000, 13.7.2000 and 30.8.2000 was given to the petitioners. So, the award has been passed without hearing the petitioners and the same is liable to be set-aside on that account.*

9) *Learned counsel for the respondents has submitted that the conduct of the petitioners is relevant. They were served for 20.4.2000, but the petitioners did not appear before the Arbitrator and exparte proceedings were conducted. On the application moved by the petitioners, exparte proceedings were set-aside on 11.5.2000. The petitioners again not appeared*

before the Arbitrator on 1.6.2000 and on subsequent proceedings. Section 24(2) of the Act cannot be misinterpreted. The underline idea is to give notice to the petitioners. So in these circumstances, the exparte award has been rightly passed by the Arbitrator.”

The aforementioned facts would reveal that the appellant did not choose to contest the proceedings before the Arbitrator.

The appeal is accordingly dismissed.

October 28th, 2015
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(AMIT RAWAL)
JUDGE