

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

1. FAO No.3124 of 2012 (O&M)
Date of decision : 20.08.2015

Punjab State through Executive Engineer

...Appellant

Versus

Tarsem Lal and another

...Respondents

2. FAO No.3125 of 2012 (O&M)
Date of decision : 20.08.2015

Punjab State through Executive Engineer

...Appellant

Versus

Tarsem Lal 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. Rajesh Mehta, Addl. A.G. Punjab (in both cases)

Mr. P.S. Khurana, Advocate for respondent No.1 (in both cases).

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of FAO Nos.3124 & 3125 of

2012 titled as Punjab State through Executive Engineer Vs. Tarsem Lal and another, as common question of facts and law raised/involved in the aforementioned appeals.

Challenge in the present appeal is to the order dated 22.11.2011, whereby objections filed by the State against the award dated 07.03.2001, have been dismissed.

Mr. Rajesh Mehta, Addl. A.G. Punjab submits that Additional District Judge has committed illegality and perversity in dismissing objections as the Arbitrator, while deciding the claim in favour of the contractor, had, exceeded in its jurisdiction by entertaining the time barred claim, much less, not assigned any reasons nor they were as per terms and conditions of the contract and, therefore, order is liable to be set aside.

Mr. P.S. Khurana, learned counsel appearing on behalf of Contractor submits that arbitration proceedings commenced in the year 1984 and continued till 2001. During this period, State did not lead any evidence, much less, not taken any objection regarding limitation.

The Arbitrator awarded compensation of ₹ 15 lacs which is within the permissible limit of the terms and conditions of the Contract. Out of 22 claims only 12 claims have been allowed and 10 have been rejected.

I have heard learned counsel for the parties and appraised the paper book.

It is now settled law that interference with objections is limited in case it is falling within the provision of Section 34 of the Act. On going through objections, it is evident that objections have been taken on the calculation done by the Arbitrator which infact are factual in nature and not

conforming with the provision of Section 34 of the Act.

I have seen the award.

The Arbitrator has given reasons for allowing 12 claims and rejecting 10 claims, therefore, award cannot be said to be without reasons as per provision of Section 34(3) of 1996 Act.

It is now a settled law that as to under what circumstances the award has to be interfered with. The question which has now been raised in the aforementioned appeal has already been answered by the Hon'ble Supreme Court in catena of judgments wherein it has been laid down that until and unless the award suffers from illegality or not in consonance with provision of Section 31 (3) of the Act, the same cannot be interfered with. In this context I intend to refer the judgments of Hon'ble Supreme Court in **Associate Builders Vs. Delhi Development Authority (2015) 3 SCC 49 and Navodaya Mass Entertainment Ltd. Vs. J. M. Combines (2015) 5 SCC 698.** In the aforementioned judgment the Hon'ble Supreme Court had culled out the ratio decidendi by holding that until and unless there is error apparent on the face of record or the arbitrator has not followed statutory legal position, it is only in these circumstances it would be justified interfering with the award. The High Court should not act as a Court of appeal and reappraise the material/evidence and embarked on a path by substitution in its own view. It is not the case of the appellant that the award is against the public policy or has violated the principles of judicial approach, much less against the statute and other provisions of Section 34 of the Act. The Arbitrator has dealt with the dispute which was contemplated and was within the scope of it. The parties to the *lis* had

participated in the proceedings and were given proper notice not only with regard to the appointment of the Arbitrator but viz-a-viz proceedings, in my view the award of the Arbitrator does not suffer from any illegality in as much as the Arbitrator who is expert has dealt with the matter and decided the claim of respective claimants to the parties to the *lis*.

The award read as a whole is just, fair and reasonable. It is now a settled law that the Arbitrator is the sole judge of quality and quantity of the evidence before him and decide on the basis of the available evidence.

There is no illegality, much less, affirmity in the award given by Arbitrator and interference is thus not warranted.

Accordingly, both FAOs are dismissed.

20.08.2015

pawan

**(AMIT RAWAL)
JUDGE**