

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 5021 of 2012 (O&M)
Date of decision : August 18, 2015

M/s Bhandari Oils & Extractions Limited and another
..... Appellants
Versus

Punjab State Cooperative Supply & Marketing Federation
Limited and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vikas Mohan Gupta, Advocate
for the appellants.

Mr. Rakesh Gupta, Advocate
for the respondents.

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?

Amit Rawal, J (oral).

The challenge in the present appeal is to the order dated 18.4.2012 passed by the District Judge, Chandigarh whereby objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter called as 'the Act') against the award dated 16.2.2005 has been dismissed.

Learned counsel for the appellant submits that the Arbitrator has committed illegality and perversity in not taking into consideration the calculations in its correct perspective though, the detail objection in this regard were filed, therefore, the impugned

order suffers from illegality and perversity and thus liable to be set aside.

Learned counsel appearing on behalf of the respondents submits that scope of interference under Section 34 of the Act is limited. The finding rendered by the Arbitrator is not against the public policy, therefore the impugned order is fair, legal and justified and no interference is warranted.

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

The award in my view, is not against the public policy or against any substantive law.

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 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 embark on a path by substituting 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 and only certain claims have been granted which have duly been supported with reasons. 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.

I have gone through the objections and none of the objections are conforming to the provisions of Section 34 which would enabled the District Judge to entertain the objections. The learned District Judge has rightly dismissed the objections.

In my view, no error of law arise from the award. The award is perfect and justified and all the objections filed against the same were wholly misconceived.

There is no merit in the aforementioned appeal.
The appeal is accordingly dismissed.

As per order dated 17.12.2013 of this Court, interim stay was granted on condition that the appellant deposits ₹2.5 lacs before the Court below. It has been submitted that same was deposited before the court below. The Markfed shall be at liberty to seek release of the amount in accordance with law.

(AMIT RAWAL)
JUDGE

August 18 , 2015
archana