

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

**FAO No.7472 of 2015 (O&M)
Date of decision:02.11.2015**

Punjab State Civil Supplied Corporation Ltd. &
another

... Appellants

Vs.

M/s Baba Nanak Rice and General Mills, Gurdaspur &
others

... 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:- Ms. Deepali Puri, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.23356-CII-2015

For the reasons stated in the application, duly supported by an affidavit, delay of 193 days in re-filing the appeal, is condoned.

C. M. stands disposed of.

C.M.No.23357-CII-2015

For the reasons stated in the application, duly supported by an affidavit, delay of 500 days in filing the appeal, is condoned.

C. M. stands disposed of.

FAO No.7472 of 2015 (O&M)

Challenge in the present appeal is to the impugned order dated 27.07.2013 and 22.07.2015, whereby, the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “1996 Act”) for setting aside the Award dated 29.05.2007, has been dismissed.

Ms. Deepali Puri, learned counsel appearing on behalf of the appellants submits that claim of the appellants before the Arbitrator was to the tune of ₹ 2,83,252/- along with interest at the rate of 21%. However, the Arbitrator declined the aforementioned claim by ordering that Punjab State Civil Supplies Corporation Limited (hereinafter referred to as “PUNSUP”) had already forfeited the security deposited by the Miller and the PUNSUP had wrongly charged the interest which could not have been charged. She further submits that the objections were within parameters of Section 34 of 1996 Act, thus, there is gross illegality and perversity in the impugned orders.

I have heard learned counsel for the appellants and appraised the impugned orders.

It is a matter of record that date of delivery of rice was extended upto 31.08.1996, therefore, the interest could not have been charged by the appellants. Once the appellants/agent had already forfeited the security deposited by the Miller, the claimed amount has been ordered to be adjusted, therefore, nothing was due to the appellants from the Miller. I do not intend to differ with the

findings rendered by the Arbitrator, much less, Objecting Court, as in my view, the objections were not within the realm of Section 34 of the 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 as statutorily prescribed under 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. 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.

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.

(AMIT RAWAL)
JUDGE

November 02, 2015
savita