

490.

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

Civil Revision No.6153 of 2005 (O&M)

Date of decision:17.02.2016

Haryana State Cooperative Supply and Marketing Federation
Limited.

... Petitioner

versus

M/s Som Nath Roshan Lal, and another Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Raman B. Garg, Advocate,
for the petitioner.

Mr. P.S. Rana, Advocate and
Mr. G.S. Rana, Advocate,
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The revision is at the instance of HAFED challenging the award passed by the Arbitrator on the ground that he had traversed beyond the terms of reference. Claim Nos.3 and 4 awarded in favour of 1st respondent where the damages that had been occasioned due to delay and the additional expenses incurred due to increase in wages payable to employees. The delay that was caused according to the contractor was a period of about 25 months against

the period fixed at 10 months.

2. The HAFED was referred to a term of contract stipulated under clause 8 that stipulated as under:-

“8. The contractor shall not be entitled for any extra amount which may be due to increase in price of material, labour, equipment, Govt. taxes, Excise duties and sales tax & contractor shall not claim any damage for unavoidable delay in supplying cement & other materials, drawings and architects/Hafed Project Engineer-in-Charge decision.”

The counsel would also refer me to the decision of the Supreme Court in **State of Rajasthan Versus M/s Nav Bharat Construction Company-JT 2005 (9) SC 173** which held that Arbitrator cannot go beyond the terms of contract between parties. This in my view does not apply, for, there were two tests to be undertaken. Whether the clause completely ruled out any prospect of claiming extra amount on account of increase in price of materials, labour equipments etc. and whether such delay was unavoidable. If the Arbitrator had found a justification, it should be in a context that an unavoidable nature of delay had not been explained. This aspect has been considered by this court by reference to several other decisions of the Supreme Court in **Union of India and others Versus Prabhat Kumar and Brothers and others-Civil Revision No.7294 of 2010, decided on**

30.04.2015. The objection taken by the petitioner is under the circumstances unjustified and the challenge to award cannot be sustained. The revision petition is dismissed.

(K.KANNAN)
JUDGE

17.02.2016
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