

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

**FAO No.3250 of 2010 (O&M)
Date of decision:04.10.2016**

Punjab State Civil Supplies Corporation Limited,
Chandigarh and another

... Appellants

Vs.

Mohan Lal Vijay Kumar, Guruharsahai and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Mr. S.K.Singla, Advocate
for respondents No.1 to 5.

AMIT RAWAL J. (Oral)

The appellants – PUNSUP are aggrieved of the impugned order dated 10.10.2009, whereby, the objection filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “1996 Act”), for setting aside the award dated 19.03.2004, has been dismissed.

Ms. Deepali Puri, learned counsel appearing on behalf of the appellants- PUNSUP submits that for the crop year 1994-95, a dispute arose between PUNSUP and Miller and the matter was referred to the Arbitrator. The Arbitrator terminated the proceedings on the ground that it was falling within the excepted clause which was not the domain of the Arbitrator and as per the terms and conditions of the agreement, the jurisdiction vested with the Managing Director. The aforementioned finding was objected to.

Though there were other claims but the Objecting Court also did not entertain the same. In support of her arguments, she relies upon the revised claim statement stated to be filed before the Arbitrator accompanied by an affidavit dated 08.03.2013 of the Managing Director.

Per contra, Mr. S.K.Singla, learned counsel appearing on behalf of respondents No.1 to 5 submits that jurisdiction of the Arbitrator was challenged in the first instance by moving a separate application and the same was replied in the month of September, 2003 and claim of 1 ½ times of the economic costs was reiterated. In fact, the revised claim statement sought to be placed on record of this appeal as the same was not part and parcel of the record before the Arbitrator. If it is so, the reply would have been different and thus, rightly so, the Arbitrator terminated the proceedings.

In rebuttal, Ms. Deepali Puri, Advocate submits that even in the un-revised claim, there were certain other claims raised before the Arbitrator and he could have proceeded with the same.

I have heard learned counsel for the parties and appraised the paper book and of the view that the claim enclosed with the affidavit as noticed above is of 06.01.2003, whereas, reply to the application moved under Section 16 of 1996 Act, challenging the jurisdiction is of September, 2003. Had it been so, the reply would have been in terms of the revised claim of 1 ½ times of the economic costs. Prima facie, I am of the view that the revised claim was/is not part and parcel of the record of the Arbitrator. Had it been so, the Arbitrator could have rendered the finding on the same.

There is another aspect of the matter. The aforementioned revised claim was never urged or even not taken in the grounds of objections. For the first time, this objection was taken. I am of the view that as the terms and conditions of the agreement did not envisage the adjudication of the lis, whereas, the claim is on account of 1 ½ times of the economic costs, the power vests with the Managing Director.

In view of what has been observed above, I do not intend to differ with the findings rendered by the Arbitrator, much less, by the Objecting Court.

No ground is made out for interference in the impugned order.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

October 04, 2016
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No