

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

F.A.O.No.995 of 2010 (O&M)

Date of Decision: November 21, 2016

**State of Haryana through Executive Engineer, Siwani Water Services
Division, Canal Colony, Bhiwani**

...Appellant

Versus

**The Siwara Luxmi Co-op Labour and Construction Society Ltd., Bhiwani &
another**

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

**Present: Mr.D.K.Mittal, DAG, Haryana,
for the appellant-State.**

**Mr.Ajay Kumar Gupta, Advocate,
for respondent No.1.**

AMIT RAWAL, J. (Oral)

Appellant-State is aggrieved of the impugned order, whereby the application moved under Section 34 of the Arbitration and Conciliation Act, 1996 (for short "1996 Act") for setting-aside of the award dated 7.9.2007 in favour of the Contractor, has been dismissed.

Mr.D.K.Mittal, learned Deputy Advocate General, Haryana representing the State submits that the work of increasing Capacity of BNC Feeder RD 175979-249150 was allotted to respondent No.1-Society and the written agreement was entered into on 9.11.2000. The completion period was kept as one year, i.e., upto 8.11.2001. The total costs originally was ₹1,76,50,000/-. However, during the intervening period, i.e., the period for

which the work was to be completed, there were certain hindrances/impediments occurred, which were addressed to and the time was extended from time to time and even the costs was increased to ₹2,42,39,000/-. Once there was some dispute with regard to the payment, the matter was referred to the Arbitrator through the intervention of the Civil Court, but the Arbitrator while addressing the issues of both the parties, much less counter-claim did not refer to the measurement book, account books and various other documents. In view of the aforementioned fact, the matter was taken up in objections as the award was falling with the realm of Section 34 of 1996 Act, but the same have erroneously been dismissed as the public money is involved and the award is running into ₹57,05,197/- plus interest @ 15% per annum. In fact, the award was suffering from patent illegality, much less public policy. It is a fit case where the matter should be remanded back.

Mr.Ajay Kumar Gupta, learned counsel for respondent No.1-Society submits that the objections were not falling within the provisions of Section 34 of 1996 Act as the assailment of the award was on general grounds and not in view of the observations made in **Associate Builders Versus Delhi Development Authority, 2015 (3) SCC 49**, much less **National Highways Authority of India Versus Cementation India Ltd., 2015 (3) R.A.J. 1**. He submits that the scope of interference in the objections by the Objecting Court, much less this Court is limited in view of the ratio decidendi culled out by the Hon'ble Supreme Court in **Navodya Mass Entertainment Ltd. Versus J.M. Combines, 2015 (5) SCC 698**, even if the Court is to form a different opinion on appreciation of the evidence. The Appellant-State has failed to make out any case falling within

the aforementioned provisions of law and rightly so, the objections have been dismissed.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no merit and force in the submission of Mr.Mittal. During the course of hearing, Mr.Mittal informs the Court that even the award has been implemented, much less there has been compliance of the aforementioned award and interest as well. The Arbitrator, being Expert, has examined the entire controversy threadbare and inasmuch that he had entered into the reference in the year 2003 and the period of four years spent by the respective parties for bringing on record their claim and counter-claim. After noticing the entire evidence on record, the Arbitrator formed an opinion that the Society is entitled to the claim as indicated above. On going through the record of the Court below, the objections of the appellant were not falling with the provisions of Section 34 of 1996 Act as the same were filed in routine manner treating it to be an appeal. The The scope of filing the objections, much less interference is limited.

I am in agreement with the ratio decidendi culled out in the judgments (supra) cited by Mr.Gupta as the State has not been able to make out a case of patent illegality to be brought within the ambit of “public policy” in view of the ratio decidendi culled out in **National Highways Authority of India's case (supra)**. Even in **Navodya Mass Entertainment Ltd.'s case (supra)**, the Hon'ble Supreme Court had an occasion to ponder upon the situation where upon examination of the evidence, even if a different opinion is formed, the Court has to be very circumspect for interference. It is a case where the objections were not

falling within the statutory provisions of Section 34 of 1996 Act.

For the foregoing reasons, no case for interference is made out.

Appeal stands dismissed.

November 21, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No