

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

FAO No.587 of 2011 (O&M)  
Date of decision : 16.02.2016

Punjab State Civil Supplies Corporation Ltd. (PUNSUP)

...Appellant

Versus

M/s Zimidara Rice and General Mills and ors.

...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: Mr. Rakesh Gupta, Advocate for the appellant.

Mr. Arun Abrol, Advocate for the respondents.

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**AMIT RAWAL, J. (Oral)**

**CM No.1796-CII of 2011**

For the reasons stated in the application, which is duly supported by an affidavit, delay of 23 days in filing the appeal is condoned.

Application is allowed.

**Main case**

The appellant-PUNSUP is aggrieved of the order of dismissal of the objection filed under Section 34 of Arbitration and Conciliation Act, 1996 seeking setting aside of the arbitration award.

Mr. Rakesh Gupta, learned counsel appearing on behalf of

appellant submits that Arbitrator has rejected the receipt as C3/A-1, without therebeing any examination of an expert, rather assumed the role of the expert which is not the domain of the Arbitrator. No doubt the other two receipts C3B/1 and C3C/1 have been found to be admitted and genuine. The other receipts are also on the same letter head, therefore, Arbitrator could not have rejected the same. The aforementioned receipts should have been taken into consideration. The objection, in this regard also met with same fate, thus, there is illegality and perversity.

Mr. Arun Abrol, learned counsel appearing on behalf of respondents submits that against the award, Miller had also filed objections under Section 34 but the same have been dismissed. However, no appeal has been filed. He further submits that only one receipt has been admitted C3/C-1 and not C3/B-1.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no merit in the appeal vis-a-vis implementation of the work qua receipts found to be genuine and Miller had sought to have made the payment. Arbitrator assumed the role of expert by examining receipts and signatures vis-a-vis by comparing with other receipts whereas signatures of Sarabjeet Singh on C3/A-1 and C3/B-1 are entirely different, therefore, it was incumbent upon the PUNSUP to lead the corroborative evidence. However, having failed to do so, the findings rendered by the Arbitrator is only vis-a-vis two receipts. Aforementioned findings of the Arbitrator, in my view would not fall within the realm of Section 34 of the 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 or for want of reasons 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.

The award read as a whole is just, fair and reasonable. It is now a settled law that the Arbitrator or Committee is the sole judge of quality and quantity of the evidence before him and decide on the basis of the available evidence.

The appeal is accordingly dismissed.

**16.02.2016**

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**(AMIT RAWAL)  
JUDGE**