

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

FAO No.4405 of 2012 (O&M)

Date of decision : 09.02.2016

Virsa Singh

...Appellant

Versus

Punjab State Civil Supplies Corporation Ltd. 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. Mukand Gupta, Advocate for the appellant.

Mr. Aman Chaudhary, Advocate for the PUNSUP.

AMIT RAWAL, J. (Oral)

The appellant is aggrieved of the order dated 16.02.2012, whereby objection filed under Section 34, after having arrived at findings that the Arbitrator did not have jurisdiction, has been dismissed on the ground that objections were not within the prescribed period i.e. as per the provision of Sub-Section 3 of Section 34 of 1996 Act.

Mr. Mukand Gupta, learned counsel appearing on behalf of appellant submits that the appellant being partner of the firm had appeared before the Arbitrator but the copy of the award dated 14.09.2007 was not supplied. It is only in the execution proceeding, it was received on 22.07.2009 and accordingly the objection was filed in the month of August, 2009 and thus could not have been dismissed being beyond the period

prescribed in the Act. Once the Objecting Court has found that Arbitrator did not have the jurisdiction, the objections ought have been allowed.

Mr. Aman Chaudhary, learned counsel appearing on behalf of PUNSUP submits that appellant being partner of the Miller had participated in the proceeding and thereafter absented and thus had knowledge of the arbitration proceedings. It is his duty to ascertain the outcome of the award. As per the supply of the award, copy of the award sent through registered post, thus, objections have rightly been held to be barred by law of limitation.

I have heard learned counsel for the parties and appraised the paper book and as well as the record of the arbitration and Objecting Court and of the view that copy of the postal receipt vide which the copy of the award allegedly sent has not placed on record, thus it cannot be presumed that the copy of the award was actually sent to the appellant. In my view, there is no compliance of the provision of Sub-Section 5 of Section 31 of 1996 Act. Be that as it may, the Objecting Court once found that arbitrator did not have jurisdiction as the claim of PUNSUP was falling within the Excepted Clause, it could not have been dismissed being beyond limitation, in essence, once the the appellant has not been sent the copy of the award, objections could not have been dismissed for want of limitation.

In view of aforesaid observation, impugned order vis-a-vis issue Nos.2 and 3 is set aside and the findings qua issue No.1 are affirmed.

Appeal stands allowed.

09.02.2016

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**(AMIT RAWAL)
JUDGE**