

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

ARB-279-2017 (O&M)

Date of decision:- 16.02.2018

Vidya Dhar & Sons

...Petitioner

Versus

Bharat Petroleum Corporation Limited and another

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE

Present:- Ms. Radhika Suri, Senior Advocate,
with Mr. Manpreet Singh Kanda, Advocate,
for the petitioner.

Mr. Raman Sharma, Advocate,
for the respondents.

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S.J. VAZIFDAR, C.J. (ORAL)

CM-967-CII-2018

Leave is granted to place on record the reply filed on behalf of the respondents and the application is allowed.

ARB-279-2017

This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 (in short the Act) for the appointment of an arbitrator.

2. The parties had admittedly entered into an agreement dated 16.03.2011 under which the petitioner was appointed as the distributor. Clause 19 thereof contains an arbitration agreement. The reference is to be to an employee of the respondents which is not permissible in view of the amendment to the Act.

3. The only objection to this petition is that there are no disputes between the parties. This is incorrect. Show cause

notices dated 13.12.2014 and 17.06.2016 had been issued by the respondents alleging, inter alia, tempering with the dispensing machines of petroleum products. Further, the respondents have also taken coercive action, namely, sealing the said machines. The respondents themselves admit that the machines have been sealed. The sales from these units have, therefore, been suspended. The petitioner contests the validity even of this action. This is certainly a dispute which falls within the ambit of the agreement.

4. The adjudication of the show cause notices is a separate matter altogether. This order does not deal with the validity of the show cause notices or the allegations mentioned therein. It is not as if no action has been taken. The action of sealing itself is a dispute. Whether the sealing was carried out justifiably or not is for the arbitrator to decide.

5. In these circumstances, the petition is disposed of by appointing on the written request of both the parties Mr. R.P. Bajaj, a retired District and Sessions Judge, Chandigarh, as the sole arbitrator. The request is taken on record and marked 'X'. The fees shall be as per the Chandigarh Arbitration Centre (CAC) (Administrative Cost and Arbitrators' Fees) Rules, 2014.

(S.J. VAZIFDAR)
CHIEF JUSTICE

16.02.2018

Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No