

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

CR No.6010 of 2017(O&M)
Date of Decision: 21.11.2018

M/s Arno Rice & General Mills Arno Through its Partner S.
Baldev Singh ... Petitioner

Vs

Managing Director, Punjab State Warehousing Corporation,
Chandigarh ... Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sandeep Jain, Advocate
for the petitioner.

Mr. Karan Singla, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J. (ORAL)

[1]. Petitioner has preferred this revision petition against the order dated 02.08.2017 passed by respondent No.2 vide which application for dropping the arbitral proceedings in view of order dated 23.08.2016 passed by Additional District Judge, Patiala was dismissed.

[2]. An award was passed on 09.04.2013 against which petition under Section 34 of the Arbitration and Conciliation Act, 1996 was filed by the petitioner. The petition was accepted and arbitration award dated 09.04.2013 was set aside with the direction to both the parties to appoint a fresh Arbitrator, if so

advised as per their mutual agreement after keeping in view the mandatory provisions of the Act. The petition was allowed vide order dated 23.08.2016 passed by the Additional District Judge, Patiala. Instead of adhering to the aforesaid order of the Additional District Judge, Patiala, Managing Director i.e. respondent No.1 proceeded to appoint new Arbitrator as per terms and conditions of the agreement.

[3]. To nullify the aforesaid appointment which was not in consonance with the order dated 23.08.2016 passed by the Additional District Judge, Patiala, the petitioner filed an application for dropping of arbitral proceedings arising out of appointment of fresh Arbitrator.

[4]. The said prayer was declined by the sole Arbitrator vide impugned order dated 02.08.2017. That is how, the present revision petition came to be filed.

[5]. At the time of issuance of notice of motion on 06.09.2017, following order was passed by this Court:-

“Learned counsel for the petitioner contends that following issues are involved for consideration:-

i. Whether fresh arbitrator could have been appointed by the Managing Director without due consultation with both the parties?

ii. Whether the appointment of fresh arbitrator is in consonance with the order dated 23.08.2016 passed by Additional District Judge?

Notice of motion for 21.11.2017.

In the meanwhile, proceedings before the Arbitrator shall remain stayed.”

[6]. Evidently, fresh arbitrator has been appointed by the Managing Director without concurrence of the parties. Fresh arbitrator has been appointed as per terms and conditions of the agreement without adhering to the order dated 23.08.2016 passed by the Additional District Judge, Patiala.

[7]. Keeping in view the aforesaid factual position, both the questions/issues framed by this Court at the time of issuance of notice of motion on 06.09.2017 have to be answered in favour of the petitioner. Consequently, this revision petition is allowed. A fresh Arbitrator be appointed by the competent authority strictly in terms of order dated 23.08.2016 passed by the Additional District Judge, Patiala. Normal consequences to follow.

21.11.2018
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No