

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

204

FAO-2735-2001 (O&M)

Date of Decision : 27.04.2018

Executive Engineer, Provincial Division, Bathinda Appellant

Versus

Balraj Kumar Bansal Contractor Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Ajay Pal Singh Gill, Deputy Advocate General, Punjab.

Mr. Vishal Aggarwal, Advocate
for the respondent.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment and order of the Additional Civil Judge (Sr. Divn.), Bathinda dismissing the objections filed by the appellant-State against an award.

The only ground taken by the appellant was that the very appointment of the Arbitrator had been challenged by them and this fact had been brought to the notice of the Arbitrator and consequently the Arbitrator misdirected himself in proceeding with the arbitration proceedings in the face of the challenge to his appointment. In para No.12 of the impugned judgment the Judge had noticed that the challenge to the appointment of the Arbitrator on behalf of the appellant was negatived right upto the Supreme Court and during that time the Arbitrator repeatedly gave opportunities to the appellant to come and present its case but the appellant adamantly refused to join the proceedings.

Further the learned Deputy Advocate General has argued that the Arbitrator was not competent to award price escalation. This argument had been considered by the Arbitrator who had given reasons in support of this and one of the reasons giving by it is that before filing the claim the respondent served a notice under Section 80 CPC for claiming this exact amount to which also no reply was filed by the appellant.

Neither the appellant filed any reply to the notice whereby this amount was claimed nor did it file any reply to the claim petition in the arbitration proceedings nor it appeared before the Arbitrator knowingly. In the circumstances, no fault can be found with the impugned judgment.

Appeal is dismissed. No costs. Any amount which was deposited by the appellant before this Court be released to the respondent.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

April 27, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No