

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

FAO No. 4649 of 2007 (O&M)

Date of decision : February 08, 2018

M/S Toubro Infotech & Industry Limited

..... Appellant

v.

Standing Committee Private Construction Labour Contractor Union & Anr

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Ajayvir Singh, Advocate
for the appellant.

Mr. Gagandeep Singh, Advocate
for respondent No.2.

Ajay Tewari, J (Oral)

This appeal has been filed against the judgment/order of the Additional District Judge, Chandigarh dated 2.4.2007 dismissing an application under Section 34 of the Arbitration and Conciliation Act, 1999 (for short “the Act”) filed by the appellant against respondent No.2.

Brief facts are that respondent No.2 filed a claim before the Standing Committee Private Construction Labour Contractor Union (Regd)-respondent No.1 claiming that it had undertaken the work of construction of the factory of the appellant and had submitted bills worth approximately ₹ 70 lakhs but the appellant had paid only ₹ 54 lakhs approximately. The Committee heard the case in 31 sittings and provided copies of the proceedings of each sitting dasti. The Committee also ensured that both the parties gave copies of the documents they had relied upon to each other.

The Committee also visited the site along with the counsel for the parties. The Committee personally examined all the objections regarding the quality of the work and all the measurements. Ultimately, the Committee rejected the claim of the appellant and awarded an amount of ₹ 18.50 lakhs odd which included interest, arbitration fee and costs. By the impugned order, the application under Section 34 of the Act having been rejected, the appellant is before this Court.

The main argument raised by learned counsel for the appellant is that respondent No.2 was not the member of the contractor union and, therefore, the union could not enter into arbitration at all. It would be noticed that this exact contention was raised before the Committee which had rejected the same by order dated 9.6.2003 i.e almost 11 months before passing of the final Award. Moreover, the mere fact that respondent No.2 was not the member of the union would not dis-entitle the Standing Committee from arbitrating on the dispute once the arbitration agreement provided for the same. Apart from this argument, learned counsel for the appellant has also argued on various issues which the appellant had raised before the Committee and before the Court below. In my opinion, those have been rightly rejected as being out side the parameters of Section 34 of the Act. In the circumstances, I find no merit in this appeal and dismiss the same.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

February 08, 2018
'kk'

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No

