

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

209-A

**FAO-5410-2009 (O&M)
Date of Decision : 8.5.2018**

**The Punjab State Civil Supplies Corporation Ltd. And another
..... Appellants**

Versus

**M/s Shree Guru Ram Dass Rice Mills, Jagraon and another
..... Respondents**

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Ms. Deepali Puri, Advocate
for the appellants.

Mr. S.K. Singla, Advocate
for respondent No.1 (i to iv).

AJAY TEWARI, J. (Oral)

This appeal has been filed against the order of the District Judge, Chandigarh dated 21.4.2009 dismissing an application filed under Section 34 of the Arbitration and Conciliation Act, 1996 filed by the appellant.

Brief facts of the case are that the appellant No.2 had filed claim against the respondents No. 1(i) to (iv) before the Arbitrator. However the Arbitrator had terminated the proceedings under Section 32(2)(c) of the Act which was challenged by the appellants. The Court had held that the termination of proceedings under Section 32(2)(c) could not be challenged by objections under Section 34 of the Act and dismissed the case and that is how the appellants is before this Court.

Learned counsel has argued that the Arbitrator had wrongly

terminated the proceedings under Section 32(2)(c). If that was so the remedy was not under Section 34 of the Act. Moreover, I find that the order of the Arbitrator is unexceptionable. He has noticed that out of 62 dates counsel for the appellant No.2 did not appear on 44 dates while counsel for the respondent No.1 did not appear on 35 dates. Moreover at one stage the appellant No.2 was granted last opportunity on which it could get their witnesses cross-examined. However none appeared on that date and the evidence of the claimants-appellant was closed.

Learned counsel for the appellants has argued that prior to that on various dates, the witnesses were present but could not be cross examined because of the absence of the respondent No.1. Be that as it may, once the last opportunity was granted to the appellants they should have been present with its witnesses. Had the witnesses appeared on that date and none appeared on behalf of the respondent, the Arbitrator would have held that the cross-examination was nil and probably allowed the claim. But once the appellants did not produce witnesses even on the last opportunity they cannot now turn around and say that its evidence was wrongly closed.

In the circumstances, no fault can be found with the judgment and order of the appellate Court. The appeal stands dismissed.

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

8.5.2018
anuradha

(AJAY TEWARI)
JUDGE

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