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

**FAO No.5498 of 2013 (O&M) &
other connected appeals
Decided on : 25.04.2018**

Saraswati Sugar Mill Limited, Yamuna Nagar

... Appellant

Versus

Gurjeet Singh and another

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Alok Mittal, Advocate for the appellant.

Mr. Som Nath Saini, Advocate for the respondent No.1 in FAO No.5498 of 2013.

Mr. Ravinder Malik, Advocate for the respondent No.1 in FAO Nos.5499 and 5500 of 2013.

G.S. Sandhawalia, J. (Oral)

The present order shall dispose of three appeals i.e. FAO Nos.5498, 5499 and 5500 of 2013, which are directed against the order of the Additional District Judge, Yamuna Nagar at Jagadhri dated 16.07.2013, whereby the petition under Section 34 of the Arbitration & Conciliation Act, 1996 (for short 'the Act') against the Award dated 25.11.2009 passed by Cane Commissioner, Haryana has been rejected.

The facts are being taken from **FAO No.5498 of 2013 'Saraswati Sugar Mill Limited, Yamuna Nagar Vs. Gurjeet Singh and another'**, since common question of facts and law are involved.

The reasoning which weighed with the Additional District Judge is that as per the chart when the appellant-Mill was in operation from 21.04.2008 to 27.04.2008, 12 indents of 75 quintals each for sugarcane were issued, which were for 900 quintals. The Mill was to purchase the quantity of 3192 quintals of sugarcane in a fair and equitable manner and once that had not been done, the defence that the respondent had not wilfully supplied the sugarcane in answer to the indents or requisition slips issued in a fair and equitable manner would not arise. It was further noticed that 4 indents were issued on 26.04.2008 and there was no such document on record to show that any request was made by the respondent that the petitioner will not raise the demand of sugarcane during a particular period. Reference was made to the report made by Assistant Cane Development Officer (ACDO) dated 21.05.2008 that sugarcane were still standing in the field of the respondent and, therefore, due to the improper issuance of the indents, demands of the Mill could not be fulfilled.

Resultantly, it was held that the Award of the Arbitrator is not lacking of any appreciating of evidence on the part of the Arbitrator. Even otherwise there was no objection that no opportunity was given by the Arbitrator to lead any evidence and, therefore, it was held that the appellants were unable to show that as to how the Award was against the provisions and which statutory provisions had been violated or the same was against any of provisions provided under Section 34 of the Act. The basic principle that it was not necessary for an Arbitrator to give reasons in support of his award was kept in mind. It was also held that there was no misconduct or malafide on the part of the respondents and, therefore, interference in the Award in question was not done.

Counsel for the appellant has vehemently submitted that it was on account of the lapse of the respondent itself that he could not supply the sugarcane to the Mill and the varieties as such which were to be supplied were mid and late varieties for the sugarcane at the end of the season. Therefore, it was on account of the inability of the respondents as such to supply sugarcane and, therefore, the amount of ₹41,804.80 as compensation which has been awarded to the respondents is not justified.

Mr. Saini on the other submitted that proper procedure as such was followed by the Arbitrator who has gone into the facts in detail and similarly the facts have also been noticed by the Additional District Judge, Yamuna Nagar at Jagadhri and, therefore, the order does not warrant interference.

A perusal of the paper-book would go on to show that Cane Commissioner before whom the dispute was raised vide order dated 25.11.2009, which is the Award in question has noticed that it was on the strength of an agreement between two parties the crop was to be supplied between 04.12.2007 to 28.04.2008 i.e. a period of 145 days and the agreement was for supply of 3192 quintals of sugarcane for the crop year 2007/2008. The notices were issued at a regular intervals of 3-4 days from 7th December, 2007 upto February, 2008 and from 19.04.2008 to 27.04.2008, 13 indents seeking 75 quintals of sugarcane on each indent was asked from farmer and, therefore, he was to supply sugarcane on 13 indents in 8 days flat. The demand was to supply the 975 quintals of sugarcane in 8 days, whereas the other bonded sugarcane of 2217 quintals was supplied over 137 days. It was in such circumstances, the Arbitrator has come to the conclusion that the Mill was bound to purchase 3192 quintals of sugarcane in a fair and equitable manner and in view of the 13 indents over a short period of time, the facts were kept in mind while granting the claim to the extent noticed above.

In the case of the present appellant the report of Assistant Cane Development Officer dated 21.05.2008 was also kept in mind, who in his report stated that the sugarcane was standing in the field and, therefore, the appellant was in a position to supply the crop, but on account of heavy demand over a short period he could not meet the requirement of the Mill and, therefore, it was justified to raise a claim.

A perusal of the chart also which forms part of the application filed by the appellant-Mill under Section 34 of the Act before the District Judge would throw a lot of light as to how the the demand of sugarcane was made from 07.12.2007 three days after the supply period. The demand was made on a regular basis in as much on 30 occasions between the said period till 07.04.2008. It was only on one occasion on 23.02.2008, the supply was not done by the cane grower. The balance indents were at Serial No.31 to 43, thus, ranging between 19.04.2008 to 27.04.2008 and out of which indents at Serial No.35 and 37 crop has been also supplied by the cane grower, who could not as such meet the demand of 4 indents between 19.04.2008 to 23.04.2008. Similarly from 26.04.2008 to 27.04.2008 of 6 indents, he supplied crop as per the indents also.

In such circumstances, the findings which have been arrived at by the Arbitrator as such has been on the basis of the perusal of the record in detail as to how the supply of the crop was not disbursed and spread over the period prescribed and at the fag end a huge demand was made which was not practical and feasible for a cane grower to fulfill.

In such circumstances, the amount which has been awarded as such is justified. The Additional District Judge has rightly noticed limitations which are prescribed under Section 34 of the Act as to setting aside of the Award, which is to be done under Section 34 (2) of the Act, only if there was no arbitration agreement or which is not valid under the law or that no proper notice of the appointment of an arbitrator was given or the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission of the arbitration or that it contains decision beyond the scope of the submission to the arbitration. The Arbitrator Award as such was not in conflict with the public policy of India and subject matter of the dispute was capable of settlement by arbitration under the law.

In such circumstances, the interference by the Additional District Judge has been rightly declined in the facts and circumstances and, therefore, no ground is made out for interfering in the orders impugned. Accordingly, the appeals are dismissed.

(G.S. SANDHAWALIA)
JUDGE

APRIL 25, 2018
Naveen

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