

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

FAO No.6586 of 2015 (O&M)
Date of decision: August 17, 2018

Haryana State Agricultural Marketing Board ... Appellant

Versus

Dharambir Singh and another ... Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Deepak Singh Saini, Advocate for
Mr. P.S. Saini, Advocate for the appellant.
Mr. N.C. Kinra, Advocate for the respondents.

Rajan Gupta, J.

Present appeal is directed against the judgment dated 28.5.2015, passed by Additional District Judge, Rohtak, whereby application filed by the appellant department under Section 34 of the Arbitration and Conciliation Act, 1996 for setting-aside award dated 10.5.2011, passed by respondent No.2- Arbitrator, has been dismissed.

Brief factual matrix of the case are that a contract work was allotted by the Executive Engineer, Haryana State Agricultural Marketing Board, Rohtak to Dharambir (respondent No.1 herein) for construction of Urban Road in Kiloj constituency at Rohtak City. Agreements in this regard were duly executed between the contractor and the Executive Engineer, Haryana State Agricultural Marketing Board, Rohtak with certain terms and conditions. Respondent No.1 did not complete the

work as per time schedule of agreement and left the works incomplete. In this way, he delayed the work. So, appellant took action under clause II and III of the agreement. Aggrieved, respondent contractor invoked arbitration clause i.e. Section 25A of the contract agreement. Consequently, Superintending Engineer, Haryana State Agricultural Marketing Board, Panchkula was appointed as Arbitrator for settlement of the dispute. Vide award dated 10.5.2011, the Arbitrator awarded Rs.3,50,982/- to contractor Dharamvir Singh and the Executive Engineer, HSAMB, Rohtak was directed to make payment of the aforesaid amount within three months from the date of award, failing which simple interest @ 9% per annum would be payable. Aggrieved, appellant filed an application under Section 34 of the Arbitration and Conciliation Act, 1996. The Additional District Judge, Rohtak, vide judgment dated 28.5.2015, dismissed the said application of the appellant.

I find no infirmity with the orders passed by the Arbitrator as well as the court below. It appears, bitumen was not supplied by the department to the contractor, as a result of which the work could not be completed in time and thus, department was itself at fault. It is settled law that award of the Arbitrator cannot be set-aside without having proved grave misconduct by the Arbitrator. There is nothing on record to show that finding arrived at by the Arbitrator as well as the court below is not in consonance with the evidence on record. Thus, appeal is without any merit and is hereby dismissed.

CM-20557-CII-2015:

Since the main appeal has been dismissed on merits, this

application for staying operation of the impugned judgment does not survive and the same is also dismissed.

(RAJAN GUPTA)
JUDGE

August 17, 2018
'Rajpal'

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