

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115

CM-20687-CII-2018 in/and
FAO-5899-2018 (O&M)
Date of Decision : 30.10.2018

State of Punjab through Secretary and others ...Appellants

Versus

M/s S.P. Singla Construction Pvt. Ltd. and another Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Ms. Amarjit Kaur Khurana, DAG, Punjab
for the appellants.

AJAY TEWARI, J. (Oral)

CM-20687-CII-2018

For the reasons recorded, the application is allowed. Delay of 90 days in filing the appeal is condoned.

Main Case

This appeal has been filed against the order of the Additional District Judge-I, Sangrur dated 21.3.2018 dismissing an application under Section 34 of the Arbitration and Conciliation Act, 1996.

The Construction work of approaches to road over bridges excluding railway portion on level crossing No. A-52 and A-63 on Ludhiana-Jakhal and Dhuri-Bhatina railway line at Dhuri, District-Sangrur was awarded on 7.9.2006 to be completed within 18 months. The project was ultimately completed after about six months of stipulated time period and the respondent-contractor claimed damages of Rs.9 Crores approximately. The Tribunal consisted of three members. One of the members of the Tribunal awarded compensation of Rs.80 lakhs with pendente lite interest of 12% per annum.

Another member of the Tribunal agreed with the compensation of Rs.80 lakhs but did not agree to grant pendente lite interest and the third member of the Tribunal dismissed the claim. The State of Punjab filed objections which having been dismissed, this appeal has been filed.

There is no serious dispute about the fact that the delay was caused for reasons were beyond the control of contractor. For instance, the portion to be completed by the Railways was not completed in time; the high and low tension wires were not removed by the Punjab State Electricity Board on time; the sewerage pipes were not removed by PWD authorities in time; some private permanent construction could not be removed in time. It is also not disputed that the respondent-contractor had moved the case for extension of time giving these very reasons and the time was extended by the department without refuting the abovementioned reasons. The only ground urged (and which found favour with the dissenting Arbitrator) was that the respondent did not issue early warning about its intention to claim damages. I find that this factor has been taken care of the majority Award and this is the only reason why an award Rs.80 lakhs has been made as against Rs. 9 Crores and why no pendente lite interest has been awarded to the respondent.

In the totality of the circumstances, the Award passed by the Arbitrator needs no interference. The appeal stands dismissed.

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

30.10.2018
anuradha

(AJAY TEWARI)
JUDGE

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