

266

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

CM No. 12137-CII of 2019 in/and
CR No. 5727 of 2018
Date of Decision: 10.07.2019

Punjab Small Industries and Export Corporation Limited through
its Manager

-Petitioner

Vs

M/s Ceigall India Limited through its Managing Director

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Divya Gurnay, Advocate,
for the petitioner.

Mr. Naresh Markanda, Sr. Advocate, with
Ms. Kavita Markanda, Advocate, and
Ms. Neiha Dogra, Advocate,
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

CM No. 12137-CII of 2019

This is an application under Section 151 CPC for
dismissal of revision petition in view of judgment dated
15.03.2019 passed by the Hon'ble Chief Justice in Arbitration
case No.258 of 2017.

With the concurrence of both the parties, the main
case is taken up today.

Main case

Admittedly, the case of 'M/s Sandhu Builders Private Limited vs Punjab Small Industries and Export Corporation Limited' and 'M/s Rohan Rajdeep Infrastructure Private Limited vs State of Punjab and another' are on the same factual parameters.

This revision petition was filed by the petitioner against the order dated 21.07.2018 passed by the learned Arbitral Tribunal, referring the arbitration to the Chairman, Punjab Infrastructure Regulatory Authority (hereinafter referred to as 'PIRA') as per notification dated 29.12.2017.

A prayer was made that the proceedings before the sole Arbitrator may be terminated and the arbitration be conducted by the aforesaid Authority under Punjab Infrastructure (Development and Regulation) Act, 2002. There was an arbitration agreement between the parties. At one point of time, Mr. L.R. Roojam, District and Sessions Judge was appointed as sole arbitrator by the petitioner on 26.12.2017. The aforesaid arbitrator could not continue because of his ill health and he resigned.

As a consequence of the aforesaid fact, another arbitrator was appointed i.e. Hon'ble Mr. Justice K.C. Puri (Retired). During pendency of arbitration proceedings before the

subsequent arbitrator, petitioner filed an application before the Arbitrator that the arbitration proceedings be terminated and the matter be referred to PIRA for conducting the arbitration proceedings. The Arbitrator dismissed the application vide order dated 21.07.2018.

At the time of issuance of notice of motion, reference was made to a similar case i.e. 'M/s Sandhu Builders Private Limited vs Punjab Small Industries and Export Corporation Limited' which was pending before the Hon'ble Chief Justice in the petition under Article 11(6) of the Arbitration and Conciliation Act.

Learned counsel for the applicant-respondent has referred to a decision in Arbitration Case No.258 of 2017 titled 'M/s Rohan Rajdeep Infrastructure Private Limited vs State of Punjab and another'. Admittedly, the aforesaid case is factually at par with 'M/s Sandhu Builders Private Limited vs Punjab Small Industries and Export Corporation Limited'.

In view of aforesaid position, the Hon'ble Chief Justice has held that the arbitration proceedings had already commenced before issuance of notification on 29.12.2017 by the State and the petitioner had approached the Court before issuance of that notification.

It is not the plea of the non-applicant/petitioner that

the judgment passed by the Hon'ble Chief Justice in Arbitration Case No.258 of 2017 is on different parameters or the same does not cover the present controversy.

The only objection on behalf of learned counsel for non-applicant/petitioner is that the composition of PIRA is likely to be completed very soon. Learned counsel could not dispute the factum of decision of Arbitration Case No.258 of 2017 which is on the same parameters as involved in 'M/s Sandhu Builders Private Limited vs Punjab Small Industries and Export Corporation Limited' which is pending consideration before the Hon'ble Chief Justice.

In the light of aforesaid facts, there cannot be any escape except to hold that the controversy is covered by the decision of Arbitration Case No.258 of 2017 decided by Hon'ble the Chief Justice on 15.03.2019.

Disposed of.

Both the parties are directed to appear before the Arbitrator on 31.08.2019.

10.07.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

- | | | | |
|----|---------------------------|---|--------|
| 1. | Whether speaking/reasoned | : | Yes/No |
| 2. | Whether reportable | : | Yes/No |