

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

FAO No. 1411 of 2019 (O&M)
Date of decision: 18.7.2019

Hindustan Petroleum Corporation Ltd. and others

...Appellants

Versus

Happy Kumar

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Raman Sharma, Advocate,
for the appellants.

Mr. Abhinav Sood, Advocate,
for the respondent.

JAISHREE THAKUR, J. (Oral)

This is an appeal that has been filed under Section 37 of the Arbitration and Conciliation Act (for short '**the Act**') seeking to challenge the order dated 24.1.2019 passed on an application filed under Section 9 of the Act, whereby the respondent herein had approached the Additional District Judge, Sangrur, for an interim order seeking stay of the impugned order dated 20.11.2018, whereby an agreement entered between the parties stood terminated by the appellants and the vehicles of the respondent used for transportation of petroleum products stood black listed.

Learned counsel for the appellants herein assails the order dated 24.1.2019 passed on the application by contending that on inspection it was found that there was a short fall of the products and the dip rod was not in

conformity/calibration of the Department of Weights and Measures and, therefore, there was necessity for terminating the agreement and black listing the truck/tanker of the respondent.

Per contra, learned counsel appearing on behalf of the respondent herein would contend that there is an arbitration clause and without the matter being finally decided between the parties, any punitive order would not be sustainable since the alleged short fall has been found in only one tanker and not in all the tankers concerning the respondent. The order so passed is wholly punitive in nature putting the respondent to a great financial loss and taking this factor into consideration the order has been passed by the Additional District Judge, allowing the application filed under Section 9 of the Act.

I have heard learned counsel for the parties at length and perused the impugned order as well as other documents annexed with the appeal.

In view of the fact that there is an arbitration clause and the matter has yet not been referred to the Arbitrator (as the respondent has given his consent for arbitration proceedings recently, in terms of the agreement entered between the parties), it is directed that an Arbitrator be appointed within 10 working days from today, who would commence arbitration proceedings, as expeditiously as possible, preferably within two weeks thereafter. The respondent is also directed to file his claim petition, along with an application seeking interim relief before the Arbitrator immediately on his appointment. Since there is urgency in view of the fact that the truck/tanker of the respondent have been black listed, it is expected

that the Arbitrator would take a conscious decision on the interim relief sought within a period of one week from the date of filing of any such application.

In the meantime, operation of the impugned order is kept in abeyance till the Arbitrator takes a decision on the interim application within the stipulated period mentioned above.

The appeal stands disposed of on the above terms.

18.7.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No