

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

FAO No.1739 of 2004 (O&M)

Date of Decision: February 14, 2019

Punjab State Civil Supplies Corporation Ltd.

...Appellant

Versus

M/s Dhiman Overseas (P) Ltd. and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Ms. Deepali Puri, Advocate
for the appellant.

JAISHREE THAKUR, J. (Oral)

1. The instant appeal has been filed by the appellant herein against the judgment dated 07.11.2003 passed by the District Judge, Chandigarh whereby, the petition filed by the appellant under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') for setting aside the award 07.05.1999 has been dismissed.

2. In short, the facts of the case are that, a dispute arose between the parties and thereupon, respondent No.2-Mr. P.R. Aggarwal was appointed as Arbitrator, who gave the award dated 07.05.1999. Being aggrieved against the award, the appellant herein filed objections under Section 34 of the Act, which came to be dismissed by the District Judge, Chandigarh on 07.11.2003. Now both, the impugned judgment passed by the District Judge, Chandigarh as well as the award of the Arbitrator has

been challenged in this appeal.

3. Ms. Deepali Puri, learned counsel appearing on behalf of the appellant argues that the District Judge, while passing the impugned judgment, did not appreciate the fact that award is not based on the evidence on record and the appellant is not liable to pay any interest on the payment of ₹ 8,42,834/-. It is contended that the amount of ₹ 3,54,442/- was not paid to respondent No.1, as the appellant had received an intimation from respondent No.1 that they had some dispute between the directors of the company, therefore, payment should not be released, however, these facts have not been considered.

4. I have learned counsel for the appellant and have gone through the pleadings of the case.

5. The District Judge, Chandigarh, while dismissing the objections of the appellant, has observed as under:-

“6. After having gone through the record, I find that the contention of the learned counsel for the objector are liable to be ignored and there is no illegality whatsoever in the award passed by the arbitrator. I also find that the arbitrator has given the award on the basis of the agreement dated 27.04.1995. Charanjit Mahendru PW1 during the course of cross-examination has admitted that he does not know if the claim was withdrawn before the arbitrator in respect of agreement dated 19.9.1994. He also deposed that he had not gone through the award. It is admitted case of the parties that the award was pronounced by the arbitrator on 7.5.1999 and now at this stage, this court is only to look into whether the award given by the arbitrator is legal and valid. I have gone through the award and I find that the award is well reasoned. I find that there is sufficient evidence before the arbitrator to come to his findings. After having gone through the proceedings, I find that all the relevant evidence/documents have been pleaded before the arbitrator and he has applied his mind to the facts of the case in hand. Moreover, I would like to observe that the

arbitrator is the sole judge of quality and quantity of evidence on record to evaluate it is his exclusive domain and the Civil Court cannot cause any interference in it. This is what has been laid down in AIR 1989 S.C. 890 and AIR 1987 S.C. 2316. It is settled law that the arbitrator is the master of law and fact. Rather, he is the master-in-chief and all the aspects of the case have been rightly discussed by the arbitrator. There is nothing on record which could spell out nor it has been pointed out by the learned counsel for the objector as to in what manner the arbitrator has misconducted himself or with the pleadings. I find that proper opportunity was given by the arbitrator and finally the award was passed on 7.5.1999. I find that the arbitrator has concluded that the Corporation was not justified in withholding the payment and a sum of Rs.11,96,634/- is payable by the Corporation to the claimant company. The Civil Court is not to re-appreciate the evidence. I find that the arbitrator has given the award after having gone through the documents/evidence produced before him. xxx xxx xxx”

6. This court is of the considered view that the petition filed by the appellant herein under Section 34 of the Act has been rightly dismissed by the District Judge. Even before this court, learned counsel for the appellant failed to point out any illegality in the impugned award. The award has been passed by the arbitrator, after considering the evidence and documents produced before him, who came to hold that a sum of ₹ 11,96,634/- was wrongly withheld by the appellant. This court does not find any illegality or perversity in the findings so recorded by the District Judge, Chandigarh.

7. In view of the above, finding no merits, the appeal in hand is hereby dismissed.

February 14, 2019
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No