

CWP-24598-2018 (O&M)

201

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

**CWP-24598-2018 (O&M)
Date of decision : 29.05.2019**

M/s Ganeshay Overseas Industries Limited

... Petitioner

Versus

Punjab State Warehousing Corporation and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashish Aggarwal, Senior Advocate with
Mr. R. Kartikeya, Advocate
for the petitioner.

Mr. Vikas Singh, Advocate
for respondent No1.

AMIT RAWAL, J. (ORAL)

The present writ petition, at the instance of the petitioner/
non-claimant, has been filed under Articles 226/227 of the Constitution of
India of issuance of a writ in the nature of Certiorari quashing order dated
28.05.2018 (Annexure P13) and further writ in the nature of mandamus
directing respondent No.1, to remove respondent No.2 as an Arbitrator.

Respondent No.1/Corporation appointed Mr. B.R.
Bansal/respondent No.2, as an Arbitrator, in respect of a dispute between
Punjab State Warehousing Corporation, Ludhiana (hereafter called
'Corporation'), arising out of the agreement dated 30.10.2009.

Mr. Ashish Aggarwal, learned Senior Counsel assisted by
Mr. R. Kartikeya, learned counsel appearing on behalf of the petitioner,

CWP-24598-2018 (O&M)

submitted that the jurisdiction of the Arbitrator was objected to, by moving an application under Sections 12 & 14 of the Arbitration and Conciliation Act, 1996 (in short 'the 1996 Act'), on premise that the Arbitrator had been the counsel on behalf of the Corporation and had submitted his resignation from the panel, after entering into reference, but despite that the application has, erroneously, been dismissed. As per the provisions of Schedule (V) carved out in Section 12(5) of the 1996 Act, the Arbitrator could not proceed with the reference.

Mr. Vikas Singh, learned counsel appearing on behalf of respondent No.1 submitted that the Arbitrator is no longer on the panel of the Corporation and no prejudice would be caused as various arbitration proceedings had been conducted, which had been very fair and honest, however, he does not express any aversion for the appointment of new Arbitrator from the panel of the Corporation.

Keeping in view the aforementioned submissions, I am of the view that Mr. B.R. Bansal, could not proceed further with the proceedings as his resignation was post entering into reference. The name of Ms. Sudarshan Modi, Former Additional District Judge, from State of Punjab, who is on the panel of the Corporation, is suggested and not objected to by Mr. Aggarwal. This exercise has been undertaken to prevent further delay as in case of succession of writ petition, either of the parties to the *lis*, would be required to invoke the provisions of sub-Section 6 of Section 11 of the 1996 Act.

Owing to the consensus arrived at between the parties, name of Mr. B.R. Bansal, is ordered to be substituted with Ms. Sudarshan Modi, Former Additional District Judge as Arbitrator, subject to her consent. On

CWP-24598-2018 (O&M)

receipt of the consent, the arbitration proceedings shall be proceeded further from the stage, they were pending, to be held at Arbitration and Conciliation Centre of this Court, Sector 17, Chandigarh.

Mr. Vikas Singh, submitted that the Corporation fixed the amount of the fees given to Mr. B.R. Bansal. Since the High Court Rules and Regulation have fixed fees, in respect of the arbitration proceedings to be conducted at the Arbitration and Conciliation Centre of this Court, whatever would be difference with regard to the fees, as undertaken by Mr. R. Kartikeya, shall be borne by the petitioner.

This Court is sanguine that the Arbitrator shall expedite the arbitration proceedings, as early as possible, in accordance with law.

With the aforesaid observations, the present writ petition stands disposed of.

29.05.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**