

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
CWP-27384-2017 (O&M)
DATE OF DECISION : 14.08.2020**

Chief Engineer, UHBVNL

...Petitioner

Versus

HMSEFC Chandigarh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Puneet Jindal, Senior Advocate with
Mr. Amandeep Singh Meho, Advocate,
for the petitioner.

Ms. Upasana Dhawan, Assistant A.G., Haryana,
for respondents No.1 and 2.

Mr. Sourabh Goel, Advocate,
for respondent No.3.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

Present writ proceedings emanate out of the grievance of the petitioner qua appointment of an Arbitrator by respondents No.1 and 2, allegedly, in violation of Section 18 (5) of the Micro, Small and Medium Enterprises Development Act, 2006 read with MSME Rules, without deciding the objections of the petitioner.

2. During pendency of the writ petition, the earlier arbitrator i.e. Sh. O.P.Garg, (Retired) Additional District and Sessions Judge (respondent No.4 herein) recused himself. Subsequently, Mr. R.P.Bhasin, (Retired) District and Sessions Judge was appointed as an Arbitrator on 30.10.2018, who too recused himself. Eventually on 01.03.2019, Mr. Balbir Singh, (Retired) District and Sessions Judge was appointed as an Arbitrator, who proceeded with arbitration proceedings under the Arbitration and Conciliation Act.

3. Meanwhile, the present petition continued to be pending in this Court and vide order dated 06.02.2019, my learned brother Tejinder Singh Dhindsa, J. observed thus :

“It is, however, made clear that pendency of this writ petition would not be a ground for stalling the arbitral proceedings.”

4. Subsequent thereto matter came up for hearing on 07.12.2019 before my learned brother Rajiv Narain Raina, J. (as he then was) who passed following order :-

“After prolonged arguments under the impression that limitation for filing an application under Section 34 of the Arbitration & Conciliation Act, 1996 is expiring tomorrow i.e. on 08.12.2019, it is revealed to the learned senior counsel Mr. Jindal by an official present in Court that in fact an application has been filed before the District Judge.

He prays for and is granted time to verify this fact and whether the Nigam has filed the application without prejudice to its rights in this petition or not and whether the application is accompanied by an application to excuse pre-deposit fully or partially for entertainment of the application.

List again on 30.01.2020.”

5. In the aforesaid premise, not only the arbitration proceedings have culminated into an Award but thereafter, recourse has already been taken by the petitioner against the award under Section 34 of the Arbitration and Conciliation Act. The award is stated to be sub-judice before the learned Commercial Court at Panchkula.

6. Without commenting on the allegations and the contentions raised in the present petition, I am of the opinion that the present proceedings are rendered infructuous. Much water has flown under the bridge since filing of the

present petition and culmination of the arbitration proceedings, coupled with challenge to the award before the Commercial Court.

7. Accordingly, writ petition is disposed of with liberty to the petitioner to raise all the contentions and the legal issues before the concerned Commercial Court, where the objections under Section 34 have already been filed. If raised, the same shall be dealt with, in accordance with law, by the Commercial Court.

8. Disposed of accordingly.

9. Since the proceedings before this Court have been rendered infructuous, all the civil miscellaneous applications are also dismissed as infructuous.

August 14th 2020
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No