
HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ARB No.434 of 2021

Date of decision:20.08.2021

Vijay Tahlani

... Petitioner

Versus

Registrar, Co-operative Societies, Haryana and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Padamkant Dwivedi, Advocate,
for the petitioner.

(The proceedings were conducted through video
conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

The petitioner seeks appointment of an Arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996.

Counsel for the petitioner has placed reliance upon Clause 61 of Annexure P-1, which is Model Bye-laws of respondent no.3-Society. It is the case of the petitioner that he is a member of the said respondent no.3-Society and on an earlier occasion, he had approached this Court by way of filing CWP No.2392 of 2016 with a prayer to refer the dispute to arbitration in view of Section 102 as well as Section 103 of the Haryana Cooperative Societies Act, 1984. This Court had relegated him to the respondents to consider and decide his representation as expeditiously as possible on 05.02.2016 (Annexure P-3). A perusal of the paper book would go on to show that the directions issued by this Court were then communicated to respondent no.2 on 10.02.2016 (Annexure P-4) regarding the same aspect.

It is not disputed that the petitioner had also filed execution application in the writ petition, wherein stand taken by the respondents is that

vide order dated 29.04.2016 (Annexure P-7), request of the petitioner for appointment of Arbitrator has been declined on account of the fact that the matter was being heard by the Committee on Petitions of Haryana Vidhan Sabha and certain directions were given to the ACRS, Gurugram and the Police Department by the said Committee during the course of hearing. It is the case of the petitioner that the said decision was never communicated to him and only in execution, he has been informed of the same.

Keeping in view the aforesaid cumulative background, as such, this Court is of the opinion that filing of the present Arbitration petition, as such, in the aforesaid facts and circumstances, is not warranted for. The petitioner has an alternative and efficacious remedy to challenge the order dated 29.04.2016 by way of filing a writ petition keeping in view the the fact that reasons have been given why the Arbitrator should not be appointed. Reference can be made to the Haryana Cooperative Societies Act, 1984 and the Rules made thereunder, vide which comprehensive modalities, as such, have been delineated for the dispute(s) to be referred for arbitration. In such circumstances, this Court is of the opinion that once the petitioner has an alternative efficacious remedy having been provided and resorted to, the petitioner cannot be permitted to change tracks and seek appointment of the Arbitrator under the provisions of the Arbitration and Conciliation Act, 1996.

Accordingly, the present petition is dismissed, as such, with the liberty aforesaid.

August 20, 2021
vinod*

(G.S.Sandhawalia)
Judge

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No