

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

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**FAO Nos.1227 & 1228 of 2014 (O&M)
Decided on : 18.08.2021**

Surender Dalal

... Appellant

Versus

State of Haryana and another

... Respondents

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

Present: Mr. P.S. Rana, Advocate
for the appellant.

Mr. Aman Bahri, Addl. AG, Haryana.

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

G.S. Sandhawalia, J. (Oral)

The present order shall dispose of two appeals bearing FAO Nos.1227 & 1228 of 2014 as the issue is common and facts are taken from FAO No.1227 of 2014.

The appellant challenges the order dated 25.11.2013 passed by the Additional District Judge, Gurgaon whereby petition under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') had been dismissed.

The primary argument raised before the said Court was that proceedings have been bound down to be decided within a period of six months and, therefore, the Arbitrator vide Award dated 09.09.2011 had exceeded six months period as directed by this Court in ARB-20 & 21 of 2010 decided on 03.05.2010 inter se the parties.

Learned Additional Sessions Judge had dismissed the same in view of not being covered under the provisions of Section 34 of the Act

and, therefore, the Award is not liable to be interfered with by this Court. The said reasoning is justified in as much as it is apparent that the appellant cannot take benefit of his own mistakes.

A perusal of the Award would go on to show that after the order dated 03.05.2010 passed by this Court the parties were supposed to put in appearance on 13.09.2010 or an agreed date which was convenient to the parties but not later than a fortnight from the date of exchange of the pleadings as directed. The appellant had been aggrieved against the appointment of Shri Rama Kant Sharma, Chief Engineer, that he would not be an impartial Arbitrator, because one Executive Engineer Shri S.K. Yadav, was inimical towards the appellant and had a great influence in the department. The same was not accepted on the ground that the appointed Arbitrator was far more senior than the person who was stated to be in a position to affect the decision making.

The Arbitrator vide the impugned Award dated 09.09.2011 noticed that on an earlier date of hearing on 02.07.2010 the claimant had not attended the hearing. Again on 03.08.2010 claimant did not attend the arbitration proceedings and the State had submitted its affidavit in support of the evidence. After the arbitration proceedings were closed, a representation dated 02.11.2010 was received that if any illegal award is passed the same would not be binding upon the claimant and the Arbitrator decided to proceed ahead *ex parte*.

In such circumstances, it is apparent that the appellant at no stage had put in appearance before the Arbitrator and now cannot turn

around and say that the Award had been passed beyond the period specified by this Court and he cannot be permitted to blow hot and cold at the same time.

Resultantly, no case is made out to interfere in the well reasoned order dated 25.11.2013 passed by the Additional District Judge, Gurgaon and the appeals stand dismissed, accordingly.

August 18, 2021
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No