

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

**CR-1564-2022 (O&M)
Date of Decision:28.04.2022**

M/S INDUS PROJECTS LIMITED

... Petitioner

Versus

M/S TANWAR ASSOCIATES AND ANR.

... Respondents

CORAM : HON'BLE MRS. JUSTICE LISA GILL

Present : Ms. Isha Goyal, Advocate
for the petitioner.

LISA GILL, J.(Oral)

Prayer in this revision petition is for directing learned Arbitrator to grant an opportunity to the petitioner to file a rejoinder to the reply filed by respondent No. 1 to the counter-claim filed by the petitioner and hear the petitioner on merits of the case before passing the final Award in Arbitration Case No. 1322 of 2019 titled as “ M/s Tanwar Associates versus M/s Indus Projects Pvt. Ltd.”

Brief facts as narrated in the petition are that pursuant to a work order being allotted to the petitioner for carrying out civil and structural work including general civil works, dispute arose between the petitioner and respondent no.1. Respondents filed a reference application before the Haryana Micro, Small & Medium Enterprises Facilitation Council, Chandigarh, claiming the amount as due from the petitioner. It is stated that an Arbitrator Shri Surinder Kumar, retired Additional District and Sessions Judge, was appointed by the Haryana Micro, Small & Medium Enterprises Facilitation Council, Chandigarh. Petitioner, however, appeared before the

Arbitrator through its counsel. Reply was sought from the petitioner, however, an application was filed by the petitioner seeking vitiation of the entire proceedings in the absence of disclosure by the Arbitrator under Section 12 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the Arbitration Act). Application was dismissed.

Petitioner filed a petition under Section 11(6) of the Arbitration Act, before this High Court. An application was filed seeking termination of mandate of the Arbitrator under Section 14 of the Arbitration Act. When reply was not filed, defence of petitioner was struck off and matter fixed for final arguments on 22.02.2020. Thereafter, CR-1251-2020 was also filed by petitioner. In the meanwhile, petitioner's application under Section 14 of the Arbitration Act was dismissed on 23.11.2021, which was again challenged by petitioner in CR-3229-2021.

Petitioner, it is submitted moved an application for stay of proceedings before the learned Additional District and Sessions Judge. In the meanwhile, order dated 14.02.2020 was recalled by the Arbitrator and amended claim petition was filed by the respondent, which was allowed. Civil Revision No.992 of 2022 was yet again filed by petitioner challenging order dated 14.02.2022, passed by the learned Arbitrator, which was dismissed as withdrawn on 23.03.2022.

Thereafter, petitioner filed a statement of defence alongwith counter claim on 28.03.2022, to which reply/rejoinder, it is stated, was filed by respondent no.1 on 29.03.2022. Petitioner is stated to have filed an application under Section 23(2) read with Section 24(1) of the Arbitration Act, seeking permission to bring on record oral and documentary evidence

on record. Matter is, however, stated to have been adjourned to 02.04.2022 for rejoinder of petitioner, if any and final arguments.

Petitioner is stated to have filed an application dated 02.04.2022 before the learned Arbitrator seeking time to file rejoinder and address arguments. Learned counsel submits that as 31st March 2022 was the closing of the financial year, necessary instructions could not be given by the petitioner to its counsel for rejoinder and final arguments, therefore, the need for an adjournment. It is submitted that the application was not even taken on record by the learned Arbitrator who proceeded to hear arguments on behalf of the claimant and reserve the matter on 02.04.2022. Learned counsel submits that award has not been pronounced till date. Thus, present revision petition has been filed now with a prayer for a direction to learned Arbitrator to afford an opportunity to petitioner as stated above.

Heard.

It is a settled position of law that this Court in proceedings under Article 227 of the Constitution of India would be extremely circumspect in interfering in arbitration proceedings. It has been held by the Hon'ble Supreme Court in *M/s. Deep Industries Ltd. Vs. Oil and Natural Gas Corporation Ltd. and another*, 2020(15) SCC 706 that interference by Courts is restricted to orders which are patently lacking inherent jurisdiction. The Hon'ble Supreme Court in *Bhaven Construction through Authorised Signatory Premjibhai K. Shah Vs. Executive Engineer Sardar Sarovar Narmada Nigam Ltd. and another*, 2022(1) SCC 75, held that the Court should interfere only in cases of exceptional rarity, wherein one party is left remediless under the statute or clear 'bad faith' is shown by one of the parties and that there should be no interjection of the arbitral process in a routine manner.

Learned counsel for the petitioner has been unable to point out a case of any exceptional rarity, which would persuade this Court to interfere and neither is the petitioner left remediless by passing of the impugned order.

Keeping in view the facts and circumstances of this case, I do not find any ground whatsoever for issuance of direction to the learned Arbitrator for grant of an opportunity to file the re-joinder by the petitioner.

Needless to say the parties are at liberty to raise all legally permissible pleas available to them before the learned Arbitrator/competent authority. No other argument has been addressed.

This revision petition is dismissed being devoid of any merit. No separate order need be passed in pending applications, if any, which stand disposed of accordingly.

28.04.2022

riya/sunil

(LISA GILL)
JUDGE

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