

ARB No. 334 of 2021 (O&M)
FAO No. 852 of 2021 (O&M)

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261 (2 cases)

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

ARB No. 334 of 2021 (O&M)
Date of Decision: 16.12.2022

M/s P.A.H.P. Petro Chems

-Petitioner

Versus

Hindustan Petroleum Corporation Limited and another

-Respondents

FAO No. 852 of 2021 (O&M)

Hindustan Petroleum Corporation Limited

-Petitioner

Versus

Parveen Gupta

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Akshay Bhan, Sr. Advocate, with
Mr. Namit Gautam, Advocate, and
Mr. Amandeep Talwar, Advocate,
for the petitioner (in ARB-334-2021)
for the respondent (in FAO-852-2021).

Mr. Puneet Jindal, Sr. Advocate, with
Mr. Raman Sharma, Advocate,
for the respondents (in ARB-334-2021)
for the appellant (in FAO-852-2021).

RAJ MOHAN SINGH, J. (Oral)

1. Vide this common order, ARB No.334 of 2021 and
FAO No.852 of 2021 are being disposed of. Facts are being
culled out from ARB No.334 of 2021.

2. The petitioner has preferred this petition under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of an independent arbitrator in order to adjudicate the dispute between the parties arising out of dealership agreement dated 01.07.2015.

3. The petitioner is a proprietor of M/s PAHP Petro Chems and is running a petrol pump and is also engaged in supply and retail of petroleum products of the respondent. The petitioner has raised its claim of investment of Rs.42,67,177.20 as on 28.02.2021 along with interest amounting to Rs.11,37,484/- i.e. total amount of Rs.54,04,661.20. E-mail dated 03.03.2021 was issued to this effect. The petitioner made a debit entry to the tune of Rs.7,79,792/- in the account of the respondent- Corporation.

4. Admittedly, there is a dispute between the parties qua the aforesaid amount in view of exchange of e-mail from both sides.

5. The petitioner further alleged that the respondent- Corporation was not agreeing to the stand of the petitioner and therefore, the petitioner was not left with any option but to stop the payment of the petroleum products as due towards him in order to force the respondent to adjudicate upon the lawful dues of the petitioner. The total due amount as raised by the

respondent- Corporation due towards sale of petroleum product is Rs.93,77,156/- as on 01.05.2021.

6. Evidently, the petitioner has also preferred an application under Section 9 of the Arbitration and Conciliation Act, 1996. The application was allowed till disposal of application under Section 11 of the Arbitration and Conciliation Act pending in the High Court, subject to the condition that in case the petitioner within a period of one month from 11.08.2021 places on record bank guarantee for a sum of Rs.1 crore or in alternative places on record FDR in a sum of Rs.1 crore with undertaking from issuing Bank, then the respondent shall resume the supply of the petroleum products to the retail outlet in question in terms of Memorandum of Agreement dated 01.07.2015.

7. Admittedly, the supply is still continuing and the petitioner has also executed a FDR in a sum of Rs.1 crore having Account No.077810PU00001375 dated 13.08.2021 drawn on Punjab National Bank, Plot No.4 Sector 10 Dwarka, New Delhi.

8. FAO No.852 of 2021 is pending arising out of proceedings under Section 9 of the Arbitration and Conciliation Act, 1996.

9. During the course of arguments, it could not be

disputed between the parties that the dispute as regards Rs.54,04,661.20/- is arbitral in nature. The amount of Rs.7,79,792/- shall also be taken care of by the Arbitrator on the basis of material to be produced by the parties.

10. Learned counsel for the respondents submits that the amount under FDRs be released in favour of the respondents so as to put the amount under circulation and the respondents shall be bound to re-execute/revive the FDR for the awarded amount along with interest without waiting for the outcome of any objection or appeal therefrom.

11. In view of consensus arrived at between the parties, the aforesaid petitions are disposed of. I deem it appropriate to appoint Sh. Anil Kumar Aggarwal, Additional Director Prosecution and Legal Remembrance HSVP #519, 1st Floor, MDC Sector-6, Panchkula, 9888492885 as the sole Arbitrator, to resolve the dispute/difference between the parties. The appointment of the Arbitrator shall be subject to the declaration to be made by him as required under Section 12 of Arbitration and Conciliation Act, 1996 in respect of his independence and impartiality to settle the dispute between the parties.

12. The Arbitrator would complete the proceedings within the specified time in terms of Section 29-A of the said Act. The Arbitrator shall be paid fee in accordance with the IVth Schedule

of the Act as amended from time to time. The fee shall be borne by the petitioner and respondent(s) in equal proportion.

13. The venue will be as per the convenience of the Arbitrator.

14. A copy of this order be dispatched to the Arbitrator at the following address:-

Sh. Anil Kumar Aggarwal, Additional Director
Prosecution and Legal Remembrance HSVP
#519, 1st Floor, MDC Sector-6, Panchkula
9888492885

15. FAO is also disposed of.

16. Since the amount of Rs.93,77,156/- is the payment of petroleum products supplied to the petitioner on credit basis, therefore, the award if any passed by the Arbitrator would be set off against the aforesaid amount and rest of the amount shall be paid to the respondents along with interest.

17. The amount lying under FDR be released to the respondents, subject to an undertaking that in the event of passing of award, if any, by the Arbitrator in favour of the petitioner, FDR would be revived or re-constituted in the same manner within a period of one month from the date of passing of the award, without waiting for outcome of any objection or appeal thereunder.

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18. A photocopy of this order be placed on the file of
connected case.

16.12.2022
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No