

LPA No.1256 of 2021

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA No.1256 of 2021

Date of decision : 05.01.2022

M/s Mohindra HP Filling Station

.....Appellant

VERSUS

Union of India and another

....Respondents

**CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Sanjeev Kumar Arora, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the order dated 28.10.2021 passed by the learned Single Judge, whereby the writ petition preferred by the appellant has been dismissed in the light of the fact that the appellant had a remedy under Section 34 of the Arbitration and Conciliation Act, 1996, which, admittedly, has not been availed by it. The writ petition was dismissed being not maintainable in the light of the fact that there is an award passed by the Arbitrator, which has, till date, not been challenged by the appellant under the relevant provisions of the statute.

Learned counsel for the appellant has asserted that after the passing of the award dated 03.01.2018 by the Arbitrator, the complain which has been filed by the Hindustan Petroleum Corporation Limited against one of the partners of the appellant firm had resulted in acquittal of

the said partner. A finding has been given by the Criminal Court in the said proceedings that there is no irregularity by the partner of the appellant firm and the result whereof would be that the appellant would be entitled to a fresh ground to be taken for challenging the award and the finding given therein by the Arbitrator. He, therefore, contends that the dismissal of the writ petition preferred by the appellant is not sustainable.

We have considered the submissions made by the learned counsel for the appellant but do not find ourselves in agreement with such submissions of the counsel for the appellant for the simple reason that it is an admitted position that the appellant had a statutory remedy against the award dated 03.01.2018 passed by the Arbitrator, which statutory remedy again, admittedly, is not barred because of the filing of a complaint against one of the partners of the appellant firm. The appellant having not availed of the statutory remedy and have approached this Court by way of the writ petition, dismissal whereof by the learned Single Judge vide order dated 28.10.2021 being not maintainable, cannot be said to be in any manner illegal or unjustified.

We do not find any ground for interference in the order passed by the learned Single Judge and therefore, dismiss the present appeal.

(AUGUSTINE GEORGE MASIH)
JUDGE

05.01.2022
Harish

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No