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Arb.O.P.(Com. Div.) No.687 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com. Div.) No.687 of 2022

M/s.Atul Industrial Corporation,
Plot No.52, Industrial Estate, Adhartal,
Jabalpur, Madhya Pradesh - 482 004.

... Petitioner

Vs.

The Tamil Nadu Civil Supplies Corporation Ltd.,
12, Thambusamy Road, Kilpauk,
Chennai - 600 010.

... Respondent

PRAYER: Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 to set aside the arbitral award dated 20.01.2022 passed by the Arbitrator Hastings Hope, in its entirety and to direct the respondent to pay the costs.

For Petitioner : Mr.Avinash Wadhwani

For Respondent : Mr.C.Selvaraj
Standing Counsel

ORDER

This petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996, challenging the impugned arbitral award dated 20.01.2022.



of the arbitrator. In particular, he referred to S.Nos.9, 10, 11 and 12 which reads as follows:

- "9. Notice to both claimant respondent dated 18.10.2021, 14.11.2021 and 15.11.2021.*
- 10. Respondent filed memo dated 13.12.2021.*
- 11. The claimant filed the written arguments dated 10.12.2021.*
- 12. The respondent filed the written arguments dated 27.12.2021."*

5. As seen from the aforementioned dates, it is clear that the arbitral award was prepared by the arbitrator even before notice could be sent to the petitioner by the arbitrator in the arbitral proceedings as the arbitrator has dated the award on 02.11.2021. The date of the arbitral award is 02.11.2021, but, has been signed by the arbitrator on 20.01.2022. Since the arbitral award was prepared on 02.11.2021 itself, the proceedings recorded by the arbitrator found in S.Nos.9, 10 and 11, which are post dated, will clearly reveal that the arbitrator has pre-judged the issue on 02.11.2021 itself which is the date of the arbitral award, though, in the cause title of the



arbitral award, the date of the arbitral award is mentioned as 20.01.2022.

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6. Since the arbitrator has pre-judged the issue by rejecting the claim of the petitioner under the impugned arbitral award, by not adhering to the provisions of the Arbitration and Conciliation Act, 1996. It is clear that principles of natural justice has been violated by the sole arbitrator. Hence, the impugned arbitral award has to be set aside.

7. The impugned award is patently illegal and opposed to public policy as the arbitrator has pre-judged the issue by violating the principles of natural justice.

8. Accordingly, the impugned arbitral award dated 20.01.2022 is hereby set aside and this petition is allowed as prayed for. However, liberty is granted to both the parties to initiate fresh arbitration in accordance with law.

26.07.2023

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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ABDUL QUDDHOSE. J.,

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