

2023:PHHC:056588

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

CR-1347-2018

Date of Decision: 21st April, 2023

Food Corporation of India

... Petitioner

Versus

Ram Narain and others

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sunish Bindlish, Advocate for the petitioner.
Mr. Namit Khurana, Advocate for respondent No.1.

AVNEESH JHINGAN , J.(Oral)

1. This revision petition is filed aggrieved of order dated 14.11.2017 rejecting the objections of the petitioner that petition under Section 34 of Arbitration and Conciliation Act, 1996 (for short 'the Act') was time barred.

2. Brief facts are that the petitioner entered into an agreement with M/s Oberoi Rice & General Mills (hereinafter referred to as 'the Firm'), Village Sadhaura, District Yamuna Nagar for shelling paddy for the crop year 1994-95. The terms and conditions provided for dispute resolution through arbitration. The arbitration proceedings were initiated at the instance of the petitioner and culminated in ex parte award dated 15.12.2007. The partner of the firm on 18.11.2016 filed objections under Section 34 of the Act. The petitioner raised a preliminary objection that petition under Section 34 of the Act is barred by limitation.

3. The stand taken by the respondents was that no signed copy of the arbitral award was served upon the firm.

4. The District Judge concluded that apart from the bald statement given by the respondents, there was no evidence available on

copy of the award was delivered to the firm.

5. The relevant portion of order is quoted below :-

“The fact remains that apart from a bald plea taken by the counsel for the respondent-Corporation, there is no evidence/material on record to prove that a signed copy of the award was duly delivered to the petitioner at any stage. Since the limitation would have started running from the date of delivery of such a copy, notwithstanding the fact that the petitioner has come out with objections at a belated stage, it does not mean that the objection should be thrown at the threshold by branding them as time barred. Since the copy of award, that too, unsigned copy, was initially received by the petitioner on 16.11.2016 and the objections were filed on 18.11.2016, there is no question of invoking the bar of limitation even if the petitioners appear to be deriving undue advantage. Such a plea was considered by the Hon'ble Supreme Court in State of Maharashtra and others Vs. M/s Ark Builders Pvt. Ltd. (supra) and it was held that this would not change the legal position.”

6. Learned counsel for the petitioner on 6.2.2020 took time to have instructions in the matter regarding the original record of the case resulting into award.

7. After the passage of three years, learned counsel for the petitioner only contends that the signed copy of the award was sent vide letter dated 19.4.2023. There is no evidence to substantiate the bald statement made that copy of the award was delivered to the respondent. No interference is called for, the petition is dismissed.

8. Since the main case has been dismissed, the pending application(s), if any is rendered infructuous.

**(AVNEESH JHINGAN)
JUDGE**

21st April, 2023

anuradha

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No