

FAO No. 7646 of 2014

[1]

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

FAO No. 7646 of 2014 (O&M)

Date of decision: 7th February, 2023

Punjab Tourism Development Corporation Ltd.

Appellant

Versus

M/s Jagdish G. Naik & Associates and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Saurabh Garg, Advocate for the appellant.
Mr. Deepak Thapar, Advocate for respondent No. 2.

AVNEESH JHINGAN, J (Oral):

Aggrieved of dismissal of objections under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act'), Punjab Tourism Development Corporation Ltd. (for short, 'the Corporation') is in appeal under Section 37 of the Act.

The facts shorn off unnecessary details are that the Corporation entered in a lease agreement with respondent No. 1 (hereinafter referred to as 'the respondent') in respect of Sohni Holiday Home Inn, Panaji-Goa. The agreement provided for mechanism of dispute resolution through arbitration. There was dispute between the parties and as per clause 3 of the agreement, the Chairman of the Corporation was appointed as the sole arbitrator. Claim was filed by the respondent and counter-claim by the Corporation.

The claims of both the parties were partially allowed.

The grievance raised in the present appeal is against the acceptance of the claim of the respondent.

Learned counsel for the Corporation submits that the arbitrator was removed from the post of Chairman of the Corporation on 26.3.2002 and the award is ante-dated as the copy of the arbitral award was supplied on 7.5.2002. It is further argued that the arbitrator erred in allowing the claim of Rs.3,50,000/- for non-displaying of the hoardings by the Corporation.

None has put in appearance on behalf of respondent No. 1 despite service.

Heard learned counsel for the Corporation and perused the record.

There is no quarrel on the proposition that scope of interference under Section 37 of the Act is limited. Reference in this regard is made to the decision of the Supreme Court in ***Haryana Tourism Limited v. M/s Kandhari Beverages Limited, 2022(3) SCC 237.***

The contention of learned counsel for the Corporation that the award is ante-dated is based upon surmises and conjectures. The arbitrator was Chairman of the Corporation except for a bald statement that the award was ante-dated, not even an attempt was made to substantiate the objection. Supply of copy of the award in May, 2002 cannot be the sole basis to conclude that the award was signed in May, 2002.

The contention challenging the claim of Rs.3,50,000/- on account of failure of the Corporation to display the hoardings is an attempt

for re-appreciation of the evidence by this court which is not permitted in proceedings under Section 37 of the Act.

It would be worth mentioning that the arbitrator has recorded the finding that in spite of providing opportunities, the Corporation had failed to produce evidence that it had adhered to clause 14 of the agreement and displayed hoardings.

No interference is called for in the impugned order.

The appeal is dismissed.

Since the main appeal has been dismissed, pending application, if any, is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

7th February, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |