

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

FAO No. 2150 of 2017

Date of decision: 12th May, 2023

Punjab State Civil Supplies Corporation Ltd. and others

Appellants

Versus

M/s Shah Rice Mills and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Deepali Puri, Advocate for the appellants.

AVNEESH JHINGAN, J (Oral):

1. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') is filed by Punjab State Civil Supplies Corporation Ltd. (hereinafter referred to as 'PUNSUP') aggrieved of acceptance of objections under Section 34 of the Act.

2. None has put in appearance on behalf of the respondents despite service.

3. The brief facts are that on 18.10.1995, PUNSUP entered into an agreement with M/s Shah Rice Mills (hereinafter referred to as 'the miller') for shelling the paddy for the crop year 1995-96. The terms and conditions provided for dispute resolution through arbitration. The arbitrator rejected the claim of PUNSUP being covered under Clause 9 of the agreement and that the decision of the Managing Director, PUNSUP on this issue shall be final. The objections filed by PUNSUP were dismissed on 4.1.2010. The Managing Director, PUNSUP vide order dated 26.2.2014

allowed the claim. It was held that the respondents shall be jointly and severally liable to pay Rs.15,05,530/- along with future interest @ 21% per annum from 1.7.2011 till realisation of the amount. The objections under Section 34 of the Act filed by the miller and its partners were allowed and the matter remanded back to the Managing Director, PUNSUP for deciding afresh. Hence the present appeal.

4. Learned counsel for the appellant submits that the decision of the Managing Director, PUNSUP cannot be challenged under Section 34 of the Act.

5. The undisputed facts are that the claim made by PUNSUP was found to be non-arbitrable in view of Clause 9 of the agreement and ultimately the issue was decided by the Managing Director.

6. The remedy under Section 34 of the Act is for challenging the arbitral award. The order passed under clause 9 is not an arbitral award, moreover, the decision of Managing Director under clause 9 is final. The District Judge erred in entertaining the objections under Section 34 of the Act against the decision of the Managing Director.

7. The impugned order is quashed and the appeal is allowed.

8. As the main appeal has been allowed, pending application, if any, is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

12th May, 2023

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| 1. Whether speaking/ reasoned | Yes | : |
| 2. Whether reportable | Yes | : |