

2023:PHHC:060589
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-203-2018 (O&M)
Date of decision: 28th April, 2023

M/s Rajla Foods

...Appellant

Versus

Punjab State Coop Supply and Marketing
Federation Ltd and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. B.P.S. Virk, Advocate for the appellant.

Mr. Vikas Singh, Advocate for the respondent-Markfed.

AVNEESH JHINGAN, J (Oral):

1. This appeal under Section 37 of Arbitration and Conciliation Act, 1996 (for short 'the Act') is filed aggrieved of dismissal of objections under Section 34 as time barred.

2. The brief facts are that the parties entered into an agreement for shelling of the paddy for crop year 2013-14. The terms and conditions provided for dispute resolution through arbitration. The arbitration was initiated at the instance of Punjab State Co-operative Supply and Marketing Federation Limited (for brevity 'Markfed'). The proceedings culminated in award dated 4th September, 2015. The objections filed by the appellant on 6th May, 2016 were dismissed as time barred.

3. Learned counsel for the appellant submits that the copy of the award was not served on the appellant and he gained knowledge of *ex parte* award through publication in newspaper on 1st January, 2016 and thereafter, the objections were filed on 6th May, 2016.

4. Learned counsel for the respondents submits that the copy of the award was sent through registered post on 4th September, 2015 at the address of the appellant. Contention is that postal receipt is available with the respondents as the arbitrator was holding arbitration proceedings in the office of the Markfed.
5. At this stage, learned counsel for appellant submits that the receipt of registered post is not available in the record of arbitration.
6. From the perusal of the pleadings in Section 34 objections, it is forthcoming that apart from the fact that the appellant gained knowledge of passing of the award on 1st January, 2016 and no further facts were disclosed.
7. Learned counsel for the Markfed is having a copy of the dispatch register in which the receipt of registered post is duly pasted.
8. Without commenting upon the merits of the case, considering that the appellant has not fully disclosed the facts known to him and that the receipt produced now was not taken into the consideration while dismissing the objections under Section 34 of the Act. The impugned orders are set aside. The appeal is disposed of by remitting the matter to the Court concerned for deciding the objections under Section 34 of the Act afresh, including the issue of limitation.

[AVNEESH JHINGAN]
JUDGE

28th April, 2023

Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |