

FAO No. 4883 of 2017

[1]

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

FAO No.4883 of 2017 (O& m)

Date of decision: 13th March, 2023

State of Punjab

Appellant

Versus

M/s. Jaswant Rai Verma contractor and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Charanpreet Singh, AAG, Punjab.
Mr. Mukand Gupta, Advocate for respondent No.1

AVNEESH JHINGAN, J (Oral):

CM No. 14821-CII of 2017

For the reasons mentioned in the application, the same is allowed. Delay in filing the appeal is condoned.

Main appeal

1. State of Punjab has filed appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') aggrieved of dismissal of objections under Section 34 of the Act.
2. The facts in brief are that respondent No. 1 (hereinafter referred to as 'the respondent') was allotted a tender for providing and laying 20 MM thick open graded premix carpet including the costs of Tack coat on various link road approved under S/R Ph-IV, Scheme in District Ropar, MC Rupnagar. The work was allotted on 16.7.2008 and was to be completed within two months. The work of pre-mix carpet was to be done

after preparation of base by another contractor. The respondent completed the work *albiet* late. On the dispute raised by the respondent, arbitrator was appointed. The proceedings culminated in award dated 30.9.2013 and the claim was partly allowed. The objections filed by the appellant were dismissed vide order dated 23.11.2016, hence the present appeal.

3. Learned counsel for the appellant submits that the arbitrator wrongly awarded the price escalation of Bitumen as the work was not completed by the respondent within the stipulated period.

4. Learned counsel for the respondent submits that the site for laying pre-mix coating was handed over late by the appellant and due to the procedural delay by the appellant, the work of pre-mix carpeting could not be started due to on-set of the rainy season.

5. Heard learned counsel for the parties and perused the record with their able assistance.

6. The objections of the appellant were dismissed considering that the plea taken was vague, no details or dates were mentioned to substantiate that the delay in completion of work was attributable to the respondent. A specific finding was recorded by the arbitrator that there was delay in handing over the site to the respondent.

7. Learned counsel for the appellant has not challenged the factual findings recorded to the effect that the delay in completion of work was not attributable to the respondent. Further that there was delay in handing over the site as also the procedural delay on part of the appellant.

8. The arbitrator after considering the evidence adduced has given

detailed reasons and to conclude that only 29% of the road length was available for laying pre-mix coating on the day of allotment of tender.

9. No infirmity or perversity has been appointed out in the award and the impugned order calling for interference by this court.

10. Consequently, the appeal is dismissed.

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

[AVNEESH JHINGAN]
JUDGE

13th March, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |