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O.P.No.752 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

O.P.No.752 of 2019

and

A.No.7180 of 2019

V.S.Arputham,
Manager,
Food Corporation of India,
Zonal Office, Haddows Road,
Nungambakkam, Chennai – 600 006.

... Petitioner

Vs.

1.The Food Corporation of India (South Zone),
Employee's Co-operative Society Limited,
Represented by its Secretary (I/c) K.Rajesh,
No.MSCS/CR-23/92,
Old No.133, New No.40,
2nd Floor, Vepery High Road,
Periamet, Chennai – 600 003.

2.S.Pandian

... Respondents

Prayer: Original Petition is filed under Section 34(2)(v) of the Arbitration and Conciliation Act, 1996, to set aside the impugned Award in A.R.C.Nos.2 and 3 of 2019 dated 31.07.2019 passed by the learned Arbitrator, subsequently declare all the proceedings initiated by the respondents against the petitioner as void.



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For Petitioner : Mr.G.Veerapathiran

For Respondents : Ms.M.Meenatchi for R1
R2 - Died

ORDER

This Original Petition has been filed under Section 34(2)(v) of the Arbitration and Conciliation Act, 1996, to set aside the impugned Award in A.R.C.Nos.2 and 3 of 2019 dated 31.07.2019 passed by the learned Arbitrator, subsequently declare all the proceedings initiated by the respondents against the petitioner as void.

2. The petitioner herein has challenged the impugned Award passed by the learned Arbitrator on 31.07.2019.

3. By the impugned Award, the learned Arbitrator has allowed the claims filed by the respondent herein A.R.C.Nos.2 and 3 of 2019. As mentioned earlier in order dated 01.02.2024, the second respondent has already deceased. The election of the second respondent was upheld by the Arbitral Tribunal and the election of the petitioner was set aside by the Arbitral Tribunal vide impugned Award dated 31.07.2019.



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4. The case of the petitioner before this Court is that although the learned Arbitrator was appointed pursuant to a consent order passed by this Court on 27.03.2019 in O.A.No.87 of 2019 filed by the petitioner herein under Section 9 of the Arbitration and Conciliation Act, 1996, the learned Arbitrator was already seized off the matter after having been appointed by the first respondent. It is submitted that the Arbitral Tribunal has committed a grave error in not allowing the petitioner to participate in the arbitration proceedings through the counsel.

5. The learned counsel for the petitioner has brought attention to the communication sent to the learned Arbitrator and to the Registrar of Multi State Co-operative Society in respect of the arbitration conducted by the respondents. It is further submitted that the attempt of the petitioner to raise objections were “stone walled” and refused by the learned Arbitrator.

6. It is submitted that the Award passed by the learned Arbitrator is biased and suffered from patent illegality and is therefore liable to be set aside.



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7. Defending the impugned Award, the learned counsel for the first respondent would submit that the petitioner had manipulated the election to get himself elected based on the Board Meeting Resolution without conducting proper election and edged out the second respondent. It is further submitted that the amount that has been awarded by the learned Arbitrator is for the expenses incurred in connection with the appointment of an Advocate Commissioner pursuant to order passed by this Court on 27.03.2019 for conduct of the election and for the expenses incurred by the first respondent in connection with the arbitration proceedings. It is submitted that the Board constituted by the petitioner wherein, Board Resolution was passed, resulted in unnecessary expenses being borne by the first respondent Society.

8. Hence, it is submitted that the impugned Award does not suffer from any patent illegality and therefore the present Original Petition is liable to be dismissed.

9. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the first respondent.



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10. It is noticed that the petitioner has attained superannuation during the pendency of the present proceedings. The second respondent has also deceased during the pendency of the present proceedings.

11. The dispute was in respect of the management of the first respondent Society. It indicates existence of power struggle within the Society. These are regular matters which the first respondent Society would face.

12. Although the petitioner is responsible for appointment of an Advocate Commissioner pursuant to order dated 27.03.2019 in O.A.No.87 of 2019, it is noticed that the petitioner was merely a President of the first respondent Society. These are the regular in-house power struggles. Therefore, it would not open for the learned Arbitrator to Award a huge sum of Rs.2,22,875/- + Rs.9,000/- as cost payable by the petitioner.

13. That apart, the learned Arbitrator ought to have been allowed the petitioner to participate in the proceedings through a counsel, even if the proceedings were intended to be speed tracked in accordance with Section



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29-B(3)(d) of the Arbitration and Conciliation Act, 1996, even if the
WEB COPY petitioner had withdrawn C.R.P.No.2051 of 2019.

14. Considering the same, the impugned Award dated 31.07.2019 is
set aside to the extent of cost awarded on the petitioner.

15. This Original Petition is allowed accordingly. No costs.
Connected Application is closed.

07.02.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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