

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-CARB-29-2024 (O&M)

Date of Decision: 09.05.2024

DG Raj Highway Services

....Appellant

Versus

Union of India and Others

....Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Sushant Kareer, Advocate and
Mr. Abir Phukan, Advocate
for the appellant.

Ms. Divya Sharma, Senior Panel Counsel
for respondent(s)-Union of India.

VIKRAM AGGARWAL, J.

1. The appellant has assailed the order dated 03.05.2024 passed by the learned Additional District Judge, Ludhiana vide which notice simpliciter of the application filed by the appellant/petitioner under Section 9 of the Arbitration and Conciliation Act, 1996 (for short 'the 1996 Act') has been issued for 16.05.2024 to the respondents and no *ad interim* injunction has been granted.

2. An agreement had been entered into between the parties on 02.05.2024 for lease of Parcel Cargo Express Train (PCET) from Dhandari Kalan to Agartala and back to Dhandari Kalan on round trip basis for a period of 06 years. However, a dispute arose amongst them for alleged non-adherence to the notified time table by the appellant/petitioner. After a series of communications, a show cause notice dated 27.04.2024 (Annexure A-13) was issued by the respondents for forfeiture of advance freight and bank guarantee to which a reply was submitted on 29.04.2024 (Annexure A-14). However, vide communication

dated 29.04.2024 (Annexure A-15), the respondents forfeited ₹62,85,631/- which was lying deposited with them as advance freight and it was also stated that in case, the said amount alongwith 5% penalty was not recouped within a period of 10 days, the security deposit/bank guarantee would be forfeited.

3. Under the circumstances, the appellant/petitioner preferred a petition under Section 9 of the 1996 Act seeking stay of the communication dated 29.04.2024.

4. Learned Senior counsel appearing on behalf of the appellant/petitioner submits that on account of the non-grant of interim relief by the Court of the learned Additional District Judge, Ludhiana, the appellant/petitioner faces an imminent threat of illegal encashment of its bank guarantee. Learned Senior counsel submits that once the appellant/petitioner has submitted a request for invoking the Arbitration Clause, it would be in the interest of Justice that the interim relief prayed for is granted to the appellant/petitioner.

5. Ms. Divya Sharma, Senior Panel Counsel, Union of India has caused appearance on advance notice having been served. She submits that the respondents are suffering a huge financial loss. However, on instructions, she submits that in case the question of grant of interim relief is decided by the Court concerned at Ludhiana in a time bound manner, the bank guarantee etc. shall not be encashed. She submits that as per the instructions received by her, the respondents will put in appearance before the Court concerned at Ludhiana tomorrow itself i.e on 10.05.2024 and pray for time to file reply to the petition under Section 9 of the 1996 Act and to complete the pleadings. She submits that arguments be, thereafter, heard on any date convenient to the Court concerned in the near future so that the issue of grant of interim relief at least is decided.

6. Learned Senior counsel appearing on behalf of the appellant/petitioner is agreeable to the course suggested by learned counsel for the respondents.

7. Accordingly, we **dispose of** the instant appeal in the following terms:-

(i) The parties i.e. the appellant/petitioner and the respondents shall cause appearance (through their counsel) before the Court of learned Additional District Judge, Ludhiana on 10.05.2024 at 10.00 AM.

(ii) The concerned Presiding Officer shall take up the file on 10.05.2024 itself and shall grant a reasonable time to the respondents to complete the pleadings.

(iii) The Court concerned shall, thereafter, proceed to hear arguments on the question of grant of interim relief on the date fixed i.e. 16.05.2024 and make efforts to decide the issue on the same date. However, if for some reason, the Court is unable to hear arguments and decide the issue of grant of interim relief on 16.05.2024, it may fix a very short date as per its convenience and schedule which shall not be later than one week from 16.05.2024. Till such time the arguments on the issue of interim relief are heard and the Court concerned is able to take a decision on the same, as stated by learned counsel for the respondents, the bank guarantees etc. furnished by the appellant/petitioner shall not be encashed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

09.05.2024
Prince Chawla

Whether speaking/reasoned :	Yes/No.
Whether reportable :	Yes/No.