2025:PHHC:133946

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2075-2020 (O&M)
Date of decision: 24.09.2025

THE PUNJAB STATE CO-OPERATIVE SUPPLY AND MARKETING FEDERATION LIMITED

...Appellant(s)

VERSUS

M/S PUNJAB RICE MILLS AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. K. K. Gupta, Advocate
for the appellant.

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<u>JASGURPREET SINGH PURI, J. (Oral)</u>

1. The present appeal has been filed against the judgment dated 16.09.2019 passed by the learned Additional District Judge, Chandigarh, whereby the objection petition filed by the appellant under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act'), seeking to set aside the award dated 10.06.2016 was dismissed.

2. Learned counsel for the appellant submitted that it is a case where there was an agreement between the appellant-MARKFED and the respondents-Millers pertaining to custom milling of rice. He further submitted that as per the practice, the paddy is purchased by the Government Agencies such as the appellant and thereafter, the same is allocated to various registered Millers and in the present case, some of the paddy was allocated to the respondents-Millers. He submitted that the quantity of paddy and the time frame work are also

stipulated. He further submitted that there was an allegation against the respondents-Millers regarding unauthorized conversion of 40257 bags of paddy into rice and there is a Clause 8(p) mentioned in Annexure P-2, which is the Custom Milling Policy of the Government of Punjab, which provides that in case of such unauthorized conversion of paddy into rice, the Miller will be liable to pay interest @ 12% per annum on the value of paddy for the duration of defalcation. He further submitted that in this way, since there was unlawful conversion of paddy into rice by the respondents-Millers, then in terms of the aforesaid Clause, interest @ 12% per annum was to be charged from the Millers and therefore, a claim of Rs.3,40,276/- along with interest @ 12% per annum was raised against the respondents-Millers.

3. Learned counsel for the appellant-MARKFED further submitted that however, the learned Arbitrator dismissed the claim of the appellant on the ground that there was no such provision in the milling agreement between the parties pertaining to charging of interest, if any, and in the absence of any such provision, no such claim could have been allowed. He further submitted that in fact the aforesaid Clause 8(p) does not find mention in the milling agreement but the same finds mention in the Custom Milling Policy issued by the Government of Punjab, which is attached along with the present appeal as Annexure P-2 and since the parties are governed by the Custom Milling Policy and it is a part of the agreement, the source for charging the interest @ 12% per annum came from the aforesaid Custom Milling Policy and therefore, the appellant could not have been non-suited only on the ground that there did not exist any provision or Clause for charging the aforesaid interest.

4. Mr. Gupta further submitted that after the award was passed against the appellant-MARKFED by the learned Arbitrator, the appellant filed objections under Section 34 of the Act before the learned Additional District Judge, Chandigarh, which were dismissed vide judgment dated 16.09.2019 on the ground that none of the parameters contained as grounds under Section 34 of the Act were fulfilled and the Court cannot re-appreciate evidence on merits. He further submitted that once the aforesaid Clause itself was present in the Custom Milling Policy (Annexure P-2), then the aforesaid aspect was required to have been considered by the learned Additional District Judge, Chandigarh while hearing the objections under Section 34 of the Act. He also submitted that the dispute relates not to the milling but to the paddy stock and therefore, the aforesaid judgment passed by the learned Additional District Judge, Chandigarh, is erroneous and liable to be set aside.

5. I have heard the learned counsel for the appellant.

6. The issue involved in the present case was pertaining to a claim made by the appellant, which is a Cooperative Institution, namely, MARKFED, before the learned Arbitrator for an amount of Rs.3,40,276/- along with interest @ 12% per annum on the ground that the respondents-Millers had unauthorizedly converted 40257 bags of paddy into rice, regarding which reliance was placed on the Custom Milling Policy (Annexure P-2) issued by the Government of Punjab, wherein it is so stated in Clause 8(p) that in such an eventuality, interest @ 12% per annum will be charged. The aforesaid Clause 8(p) at page No.42 of the paper-book is reproduced as under:-

> *"8(p) In case the miller lifts the paddy without R.O. or un-authorisedly converts it into rice, it shall tantamount*

to defalcation and the department may take any action against the miller. The miller will be liable to pay the interest @ 12% per annum for the value of paddy for the duration of defalcation."

7. A perusal of the award and the impugned judgment passed by the learned Additional District Judge, Chandigarh would show that it is an admitted position that in the agreement between the parties, there is no such provision for charging of any interest. This factual aspect has not been disputed by the learned counsel for the appellant. The only argument raised by the learned counsel for the appellant was that since there is a separate Custom Milling Policy containing the aforesaid provision and the Custom Milling Policy is a part of the agreement, therefore the same can be invoked. However, on a query being raised to the learned counsel for the appellant as to whether there is any Clause in the agreement between the parties that the aforesaid Custom Milling Policy will be part of the agreement, to which he submitted that there is no specific incorporation of any such Clause. In this way, it is evident that there is no such Clause in the agreement between the parties on the basis of which the arbitration proceedings were initiated pertaining to charging of any interest. This was the reason as to why the claim of the appellant-MARKFED was disregarded by the learned Arbitrator and the same was dismissed.

8. It would also be imperative to peruse the Custom Milling Policy (Annexure P-2). A perusal of the same would show that it is issued by the Director, Department of Food, Civil Supplies and Consumer Affairs (Rice Procurement Branch), Government of Punjab and therefore, it is not any agreement between the parties. Although it finds mention in Clause 13 of the

aforesaid Custom Milling Policy that the disputes, if any, shall be resolved through arbitration by an Arbitrator but the Custom Milling Policy (Annexure P-2) is only a Policy issued by the Government of Punjab unilaterally for the purpose of governing the milling of paddy to be converted into rice and it cannot be considered to be an agreement between the parties. Under the Arbitration and Conciliation Act, 1996, the arbitration Clause is to be invoked on the basis of a written agreement between the parties having a valid existing arbitration clause and it is not in dispute that the Arbitrator in the present case was appointed under the agreement between the parties and not under Annexure P-2, which was the Custom Milling Policy issued by the State Government.

9. Learned counsel for the appellant also stated that the respondents are registered Millers under the Custom Milling Policy and therefore, any Clause contained in the aforesaid Policy would be applicable to them. There is no dispute with regard to the fact that the Millers are registered under the Custom Milling Policy, if at all, but the question here would be as to whether the respondents-Millers can be held liable under any Clause which does not exist in the agreement, which is in the nature of a bilateral agreement between the parties. It is an admitted position that although the agreement has not been annexed along with the present appeal but there is no such Clause in the agreement for charging of interest and that was the precise reason as to why the claim of the appellant was dismissed by the learned Arbitrator.

10. When the appellant-MARKFED filed objections under Section 34 of the Act, then the learned Additional District Judge, Chandigarh, while discussing the applicability of Section 34 of the Act pertaining to the parameters

required to be fulfilled in the nature of objections came to the conclusion that none of the parameters were applicable because none of the grounds stated in Section 34 of the Act were satisfied.

11. After hearing the learned counsel for the appellant, this Court is of the considered view that the scope of Section 34 of the Act is limited only to the extent of the grounds incorporated therein. Similarly, the scope of Section 37 of the Act is also very narrow. Hon'ble Supreme Court in ***M/s C and C Constructions Limited versus IRCON International Limited, 2025 (4) SCC 234*** held that the scope of interference in an appeal under Section 37 of the Act is well settled and reference was made to the earlier judgments passed by Hon'ble Supreme Court in ***Larsen Air Conditioning and Refrigeration Company versus Union of India and others, (2023) 15 SCC 472*** and also in ***Konkan Railway Corporation Limited versus Chenab Bridge Project Undertaking, (2023) 9 SCC 85***. The relevant portion of the aforesaid judgment in ***M/s C and C Constructions Limited's case (Supra)*** is reproduced as under:-

> *"34. As far as scope of interference in an appeal under Section 37 of the Arbitration Act is concerned, the law is well settled. In* ***Larsen Air Conditioning & Refrigeration Co. v. Union of India****, this court held thus: (SCC P.478)*
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> > *"15. The limited and extremely circumscribed jurisdiction of the court under Section 34 of the Act, permits the court to interfere with an award, sans the grounds of patent illegality i.e. that illegality must go to the root of the matter and cannot be of a trivial nature; and that the Tribunal must decide in accordance with the terms of the contract, but if an*

arbitrator construes a term of the contract in a reasonable manner, it will not mean that the award can be set aside on this ground [ref : Associate Builders, SCC p. 81, para 42]. The other ground would be denial of natural justice. In appeal, Section 37 of the Act grants narrower scope to the appellate court to review the findings in an award, if it has been upheld, or substantially upheld under Section 34."

(emphasis in original and supplied)

*35. In **Konkan Railway Corpn. Ltd. v. Chenab Bridge Project** in para 18, this court held thus: (SCC P.93)*

"18. At the outset, we may state that the jurisdiction of the court under Section 37 of the Act, as clarified by this Court in MMTC Ltd. v. Vedanta Ltd, is akin to the jurisdiction of the court under Section 34 of the Act. Scope of interference by a court in an appeal under Section 37 of the Act, in examining an order, setting aside or refusing to set aside an award, is restricted and subject to the same grounds as the challenge under Section 34 of the Act."

12. In the present facts and circumstances, it is an admitted position that there was no Clause in the agreement between the parties pertaining to charging of any interest. The learned Arbitrator came to the conclusion that in view of the aforesaid position, no such claim could be raised by the appellant-MARKFED, who was the claimant. The learned Additional District Judge, Chandigarh, while deciding the objections under Section 34 of the Act came to the conclusion that the plea taken by the appellant could not constitute a ground under Section 34 of the Act.

13. This Court while exercising powers under Section 37 of the Act is also to see the aforesaid facts and circumstances and considering the fact that no illegality or perversity can be found in the aforesaid impugned judgment dated 16.09.2019 passed by the learned Additional District Judge, Chandigarh, the present appeal is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

24.09.2025
Chetan Thakur

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