

(1997) 05 P&H CK 0056

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 221 of 1986

Gaje Singh

APPELLANT

Vs

Panipat Cooperative Sugar Mills Ltd. and Others

RESPONDENT

Date of Decision : 12-05-1997

Acts Referred:

Citation : (1997) 117 PLR 669 : (1997) 3 RCR(Civil) 484

Hon'ble Judges : P.K. Jain, J;M.S. Liberhan, J

Bench : Division Bench

Advocate : S.K Goyal, for the Appellant; R.S. Tacoria, for the Respondent

Final Decision : Dismissed

Judgement

M.S. Liberhan, J.—In this Letters Patent Appeal the question in dispute is whether a member of Co-operative Society - the owner of the mill was bound to supply the sugarcane under bylaws of the Co-operative Sugar Mills or under any agreement of sale entered into with the Society by the mill i.e. whether the appellant has any right or duty to discharge towards the Co-operative Society as member of the said Society.

2. Hon"ble the Single Judge came to the conclusion that the appellant is nowhere liable to supply the sugarcane being a member of the Co-operative Society nor the Cooperative Society incurred any liability as such, including the appellant being a member of it. The dispute is with respect to non-supply of sugarcane and who was bound to supply is the grower under the Punjab Sugarcane (Regulation of Purchase and Supply) Act, 1953 (hereinafter referred to as" the "Act")

3. The only dispute referable to arbitrator u/s 55 of the Punjab Cooperative Societies Act, 1961 is relating to the dispute between the society and its members relating to the affairs of the society. The question of suffering damage on account of non-supply of sugarcane is not covered under it as it is not a dispute between the members of the Society and the Society as such. The appellant has dual capacity i.e. one as member of the Society and the other"

being an individual. Herein the only dispute with respect to the damage suffered by him on account of not taking the sugarcane by the Co-operative Sugar Mill which is owned by the Cooperative Society is a dispute between an individual and the Society and not as a member of the Society, consequently the award passed by the authority is without jurisdiction.

4. Learned counsel for the appellant has vehemently contended that once they had submitted to the jurisdiction of the Arbitrator and the matter was referred to the Arbitrator, which was never challenged, the respondents are estopped from challenging the jurisdiction of the Arbitrator.

5. In our considered view mere submission to the jurisdiction of the Arbitrator who has no jurisdiction and the reference being statutory would neither confer jurisdiction upon the Arbitrator nor would estops the appellant to challenge the award being without jurisdiction.

6. Learned counsel for the appellant further vehemently contended that since the respondents have not challenged the award of the Arbitrator as well as the order of the appellate authority including the reference order consequently cannot challenge the final order passed by the revisional authority fixing liability of the respondents.

7. We find no force in the submission of learned counsel for the appellant for the simple reason that all the orders, passed by the authorities below merged in the order of revisional authority which order has been duly challenged the same being a final order.

In view of the observations made above that Arbitrator did not have any jurisdiction to pass the award and the award being void cannot be enforced.

8. We may hasten to add that in a writ of certiorari appropriate relief can be granted after going through the records. In view of the facts and circumstances of the case, the award of the Arbitrator being without jurisdiction, subsequent orders of appellate authority or the revisional authority would not render it as one with jurisdiction or would not validate a void award.

We find no ground to interfere in this Letters Patent Appeal. The same is hereby dismissed with no order as to costs.