
(1967) 10 P&H CK 0047
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 520 of 1967

Punjab University

APPELLANT

Vs

Arya Pratinidhi Sabha, Punjab and others

RESPONDENT

Date of Decision : 23-10-1967

Acts Referred:

Arbitration Act, 1940 — Section 33

Citation : (1967) 10 P&H CK 0047

Hon'ble Judges : P.C. Pandit, J

Bench : Single Bench

Advocate : A.S. Sirhadi with Mr. R.K. Aggarwal, for the Appellant; Bakhtawar Singh with Ch. Man Mohan Singh, for the Respondent

Final Decision : Allowed

Judgement

P.C. Pandit, J.—There is a college in Nawanshahr Doaba, district Jullundur, which is being run by the Arya Pratinidhi Sabha, Punjab, respondent No. 1, whose President is Prof. Ram Singh, respondent No. 2. Shri Nand Lal respondent No. 6 was the principal of the said college. He was, however, removed from that post, because certain complaints had been received against him. It appears that previously there was some litigation between the parties on that account, but ultimately the matter was referred to arbitration in view of Regulation No. 15 of the Punjab University Calendar 1964-65, volumn I, which runs as under :

Any dispute arising in connection with the termination of the services of a Principal/Teacher except when he is on probation, shall be referred to the arbitration of a committee consisting of the Vice-Chancellor or his nominee and a nominee each of the management and the teacher.

Each party to dispute shall submit the name of its nominee within a fortnight of the issue of the letters asking them to do so.

The Committee shall have power to enquire into all the aspects of the case and its decision shall be final and binding on the parties.

The Vice-Chancellor or his nominee as the case may be, shall, if he is satisfied that the constitution of the Committee or a decision by the Committee within a reasonable time is being delayed due to non-co-operative attitude of any of the parties or their nominees, be competent to give an award in the case.

The Indian Arbitration Act of 1940 shall apply to an arbitration under this Regulation for matters not specifically provided for.

Under this Regulation, S.B. Narinder Singh, respondent No. 3, was appointed as a nominee of the Vice-Chancellor of the University of the Punjab to act as one of the arbitrators. Similarly, Dr. V.S. Puri, respondent No. 5, was nominated by respondents 1 and 2, and Shri Ram Dutt respondent No. 4, by respondent No. 6. It appears that some proceedings were taken by the arbitrators, but on 29th of September 1966, a petition u/s 33 of the Indian Arbitration Act, 1940 was filed by respondents 1 and 2 in the court of the Senior Subordinate Judge, Ambala in which they challenged the existence and the validity of the arbitration agreement on a number of grounds mentioned therein. The vires of Regulation 15 was also attacked by the petitioners. Besides, in paragraph 19(h) of the petition, it was said-

(h) The constitution of the said Arbitral Tribunal is also otherwise illegal, bad, unenforceable for the following reasons :

(i) That it was not disclosed at the time of reference to the Vice-Chancellor by the respondent No. 4 (Shri Nand Lal) to constitute the appeal committee that the Vice-Chancellor is personally interested in him and therefore, the Vice-Chancellor or his nominee was not competent to serve on the arbitral tribunal. It has been subsequently discovered that the Vice-Chancellor who is one of the members of the arbitral tribunal or is to nominate his nominee to serve on the said tribunal on his behalf, is disqualified from serving or constituting the arbitral tribunal. Therefore, the respondent No. 1 (S.B. Narinder Singh) who is the nominee of the Vice-Chancellor is also disqualified from serving on the arbitral tribunal, as its member. The respondent No. 4 (Shri Nand Lal) is a very close friend of the Vice-Chancellor and had been serving him in his campaign for the elections and he is, therefore, personally interested in the respondent No. 4 (Shri Nand Lal) and biased against the petitioners, it was after the appointment of the Vice-Chancellor of the Punjab University that the respondent No. 4 (Shri Nand Lal) manipulated to have the arbitral tribunal constituted otherwise during the tenure of the office of his predecessor, he had been pursuing his remedies in regular court of law.

(ii) That the conduct of the proceedings by the nominee of the Vice-Chancellor is positively against the petitioners and in favour of the respondent No. 4 (Shri Nand Lal) for the simple reason that the Vice-Chancellor has nominated his own friend as his nominee and himself being interested in the respondent No. 4 (Shri Nand Lal), his nominee is also equally interested in him. These facts were not disclosed to the petitioners at the time when the proceedings started. Thereafter,

they could not challenge it earlier.

During the pendency of this petition u/s 33 of the Arbitration Act, the University of the Punjab filed an application under Order I, Rule 10 and section 151 of CPC for being impleaded as a respondent in the said petition. This application was opposed by respondents 1 and 2 and was dismissed by the Senior Subordinate Judge, Chandigarh on June 8, 1967, because in the view of the learned Judge, the University of the Punjab was neither a necessary nor a proper party to the proceedings u/s 33 of the Arbitration Act, Against this order, the present revision petition has been filed by the University of the Punjab.

2. A preliminary objection has been raised by the Learned Counsel for the respondents that no revision petition lies against this order. His submission is that the Arbitration Act only provides for a right of appeal against certain orders mentioned in section 30 and no right of revision has been given to any party under the Act. u/s 41(a) of the Act, according to the Learned Counsel, the provisions of the CPC will apply to all proceedings before the court and to all appeals under the Act, but this is only for regulating the proceedings under the Arbitration Act before the Court and this also is subject to the provisions of the Act and of the rules made thereunder. Under the Act, however, argues the counsel, no right of revision has been provided.

3. This precise objection was repelled by a Division Bench of the Lahore High Court consisting of Abdul Rashid, C.J. and Mahajan J. in AIR 1948 50 (Lahore) where it was held -

There is nothing in Section 30 or Section 41 which in any way takes away the powers that the High Court possesses of entertaining petitions for revision u/s 115, Civil Procedure Code. The proceedings before an appellate Court under the Arbitration Act are judicial proceedings and the fudge exercising powers is a judicial officer. Hence a revision u/s 115, CPC against an order passed on appeal u/s 39. Arbitration Act is competent.

Following this authority, I would overrule the preliminary objection.

4. Coming to the merits of the case, after hearing the counsel for the parties, I am of the view that for the proper disposal of this case, both the University of the Punjab and the Vice Chancellor of the said University should be impleaded as respondents in the petition u/s 33 of the Arbitration Act. Certain allegations have been made against the Vice Chancellor, which I have reproduced above. It has been said that he was personally interested in respondent No. 6, because of certain reasons mentioned in the petition. The insinuation was that bearing that relationship in view, he should not have appointed anybody as his nominee and since he was biased in favour of respondent No. 6, his action in appointing respondent No. 3 as his nominee was mala fide. It is undisputed that if the allegations of mala fides are made against a particular individual, that matter cannot be decided in the absence of the person concerned. It is, therefore, necessary that the Vice-Chancellor of the University of the Punjab, must be given

a chance of rebutting the allegations made against him. This question cannot be tried behind his back. He should, therefore, be added as one of the respondents. Learned Counsel for respondents 1 and 2 has undertaken to put in an application in that behalf.

5. So far as the University of the Punjab is concerned its presence before the Court is also desirable, not because respondents 1 and 2 challenged the validity or the existence of the arbitration agreement, but because the vires of Regulation No. 15 was being attacked. The University of the Punjab itself has made an application for being Impleaded as a party to the proceedings and if its prayer is granted, concededly respondents 1 and 2 do not stand to suffer in any way. On the other hand, if both the University of the Punjab and its Vice Chancellor are before the court, that will enable it to properly and effectively decide the various allegations made in the petition by respondents 1 and 2.

6. I would, therefore, accept this revision petition, set aside the order of the court below and direct that the University of the Punjab be impleaded as a respondent. As I have said, Learned Counsel for respondents 1 and 2 has undertaken before me that he would make a suitable application for impleading the Vice Chancellor of the University as a respondent. The court below is directed to proceed with this case as expeditiously as possible after both the University of the Punjab and its Vice-Chancellor have been impleaded as respondents.

7. The parties have been directed to appear before the court below on 26th November, 1967 for further proceedings in the case. There will however be no order as to costs.