
(1998) 12 RAJ CK 0026

In the Rajasthan High Court

Case No : Civil Writ Petition No"s. 659 and 660 of 1998

Union of India (UOI) and Others

APPELLANT

Vs

Girdhari Lal

RESPONDENT

Date of Decision : 03-12-1998

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 15

Citation : AIR 1999 Raj 106

Hon'ble Judges : Bhagwati Prasad, J

Bench : Single Bench

Advocate : J.P. Joshi and V.K. Mathur, for the Appellant; K.N. Joshi, for the Respondent

Final Decision : Dismissed

Judgement

Bhagwati Prasad, J.—The order under challenge in writ petitions is the decision of the designated authority which has been set aside in another writ petition. For those reasons the decision cannot be sustained in these writ petitions as well. Therefore, the order impugned in these writ petition dated 19-12-1997 is set aside. However, in these two writ petitions a peculiar circumstance has emerged i.e. the arbitrator has not been able to adjudicate regarding the arbitration matter referred to him in relation to Appendix-A because before he could decide the matter interlocutory orders were passed firstly by the designated authority and secondly by this Court restraining the arbitrator from deciding the arbitration matter in relation to Appendix-A.

2. Counsel for the petitioners has stated that with the retirement of the officer the mandate of the arbitrator has been terminated, therefore, he cannot now decide the question nor the designated authority has a right to extend the time of arbitration as regards Appendix-A. Therefore, in these matters a new arbitrator shall have to be appointed afresh.

3. Counsel for the respondent has submitted that virtually the arbitration was

over. This would be evident from the letters issued by the arbitrator. Once the arbitration is over then it is only the formal pronouncement of the order and that should not be stopped. In this relation learned counsel for the respondent has placed reliance on certain documents produced on the record of S. B. Civil Writ Petition No. 660/1998. Union of India v. Girdhuri Lal along with the application under Article 226 of the Constitution of India filed, by the respondent as Annexs.- A, B and C. All these documents have been relied upon by the learned counsel for the respondent. Learned counsel for the contractor-respondent has stated that since the arbitration being complete the arbitrator should be permitted to announce the award in relation to Appendix-A and he placed reliance on a decision of the Supreme Court in the matter of Construction India Vs. Secretary, Works Department, Government of Orissa and Others, wherein it has been held as under :

"But when the Arbitrator is named, unless there is a clear intention spelt out in the agreement of reference to indicate that he would continue to be an Arbitrator only so long as he holds a particular office, a mere reference to the office held by the Arbitrator will not disqualify him from being an Arbitrator after he ceases to hold that office."

4. He has further placed reliance on a decision of this Court in the matter of Engineer-in-Chief and three Ors. v. Ratan Singh son of Hanuman Singh and Anr. (S. B. Civil Revision Petition No. 1/1996, decided on 9-1-1996).

5. I have heard the learned counsel for the parties and have given my thoughtful consideration to the submissions made by the counsel for the parties.

6. As far as implication of Section 15 of the Arbitration Act, 1996 (referred to hereinafter as "the Act") is concerned, that is clear. An appointed arbitrator on his withdrawal from the office ceases to be an arbitrator and his mandate terminates. The powers of the Court as regards extension of period of arbitrator could be exercised by the Court when an arbitrator is appointed by it and where the arbitrator is appointed under the contract and it is provided that he can act as an arbitrator so long as he is in service then it cannot be said that his period can be extended as the mandate itself has come to an end u/s 15 and something which has got exhausted can-not be saved unless a power is vested in the Court by some legislation to extend the time. The power to extend the time in the Act is not available and since the power is not available, therefore, the same cannot be extended and, therefore, in this background the plea of the respondent that the arbitrator should be permitted to pronounce the award in relation to Appendix-A is also devoid of any merit and, is, therefore, rejected.