



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

113

CR-95-2025(O&M)

Date of Decision: 13.01.2025

**Punjab Education Development Board through Deputy State Project
Director**Petitioner

versus

Gram Vikas Educational Society (Regd.) and another
.....Respondents

CORAM: HON'BLE MS. JUSTICE LAPITA BANERJI

Present:- Mr. Anand Vardhan Khanna, Advocate,
for the petitioner.

LAPITA BANERJI, J.(Oral)

1. Learned counsel appearing on behalf of the petitioner submits that the learned Arbitrator has erred in law and acted erroneously by recalling or reviewing his own order. By an order dated September 28th, 2024, the learned Arbitrator had suspended the hearing of the claim petition filed by the claimant-respondent herein, since the claimant did not deposit the Arbitrator's fee and other miscellaneous expenses towards the main claim. By an order dated November 8th, 2024, the learned Arbitrator closed the right to cross-examine the petitioner-counter claimant's witnesses as no authorized person appeared on behalf of the claimant to conduct the cross-examination of the witnesses. Both the aforesaid orders were recalled by order dated December 17th, 2024 (impugned order).

2. The claimant filed an application before the learned Arbitrator for recalling of the previous orders and submitted that due to financial stringency for reasons beyond its control it could not comply with the



previous orders passed by the learned Arbitral Tribunal. Along with the application, the claimant has also put in a demand draft of Rs.1 lakh as part of its share of Arbitrator's fee and administrative expenses towards the main claim and counter-claim.

3. Learned counsel submits that the claimant indulged in dilatory tactics and learned Arbitrator should not have recalled/reviewed his own order. By recalling/reviewing his own order, the learned Arbitrator acted erroneously and the impugned order was patent illegality.

4. Heard.

5. After hearing the learned counsel for the petitioner and perusing the material on record, this Court finds that the learned Arbitrator permitted the claimant to continue with this claim petition since he had put in a demand draft of Rs.1 lakh towards the fees of the Arbitral Tribunal and other administrative expenses. The claimant had also expressed his willingness to pay the balance sum of the outstanding dues in that regard.

6. The learned Arbitrator found that dismissing the claim petition for non-compliance of the payment of arbitral fees would undermine the principles of substantial justice, particularly when the claimant has taken corrective steps. Therefore, the learned Arbitrator held that upon the partial payment being made by the claimant, his commitment to clear the balance amount indicated *bona fide* intent. Therefore, it was held that equity, fairness and substantive justice must prevail over procedural records. Hence, he recalled his previous orders and held that the petitioner herein-respondent in the arbitration proceedings, could be adequately



compensated by awarding costs for the inconvenience caused by summoning the witnesses again. Therefore, there would be no undue prejudice caused to the respondents, if the claimant paid sufficient costs.

7. The learned Arbitrator held that the main claim petition to be revived by revoking the suspension order dated September 28th, 2024 and the claimant was permitted to lead evidence before cross-examining the respondent-witnesses. The order dated November 8th, 2024 stood modified/recalled by granting the claimant final opportunity to cross-examine the respondents-witnesses subject to payment of Rs.10,000/- as costs to the respondents. The respondents were also granted liberty to lead other evidence, if they so desired as the Arbitral Tribunal revoked the suspension order of the main claim petition. Furthermore, it was directed that non-compliance by the claimant of the aforesaid directions would automatically lead to foreclosing of its right to proceed with the claim and right to further cross-examine the respondents-witnesses.

8. This Court finds nothing wrong in the order dated December 17th, 2024 passed by learned Arbitrator. The learned Arbitrator sought to do substantive justice between the parties and cannot be faulted for doing so. There is no provision in the Arbitration and Conciliation Act, 1996 which precludes the Arbitrator from recalling its own order to substantial justice between the parties. In fact, under Section 19(3) of the 1996 Act, the learned Arbitrator is free to conduct the proceedings in the manner it deems appropriate in the event the parties under Section 19(2) do not agree upon the procedure. In the present case no argument is made with regard to the



parties agreeing to any procedure, particularly relating to the recalling of any order. The impugned order seems to be a fair and balanced one and there is no error of law on the face of the record or patent illegality that was pointed out by learned counsel appearing on behalf of the petitioner herein.

9. Accordingly, present petition is dismissed.
10. Pending application(s), if any, are also disposed of.

13.01.2025

Jyoti Thakur

**(LAPITA BANERJI)
JUDGE**

*Whether speaking/reasoned:
Whether reportable:*

*Yes/No
Yes/No*