

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

AA No. 408/1987

Pronounced on : 1 .06.2020

M/s Shah Pandya and Shot
Crete

.... Petitioner/Appellant(s)

Through:- Mr. A. P. Singh, Advocate

V/s

Salal Hydro Electric Project, Jyotipuram

.....Respondent(s)

Through:- None

Coram : HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE

JUDGMENT

- 01.** This petition under Sections 30 and 33 of the J&K Arbitration Act, 2002 (1945 AD) was filed by Salal Hydro Electric Project Jyotipuram through Dy. Manager Rock Mill Dam on 30.08.1987. Respondent/applicant has challenged the award dated 21.02.1987 made by Sh. R. P. Bhatt, Senior Advocate, who was appointed as Sole Arbitrator to adjudicate the dispute arisen between the parties out of contract made between the parties on 29.08.1979. The award has been challenged on number of grounds specified in para-2 (a to j) of the petition. Strangely enough, no signed or certified copy of the award has been filed. It appears that the petitioner was aggrieved by the award because Arbitrator had awarded the claim specified in Claim Nos. 6 and 8 to the Contractor.
- 02.** However, contractor has not appeared despite service and repeated notices were also issued to the Arbitrator to file the award but also had not been served. The question which arises for consideration is whether this petition is maintainable in view of the non-compliance of Section 14(2) of the Arbitration Act, 2002 Svt. 1945. Section 14 (1&2) of the Act being relevant are extracted as under :-

“14 Award to be signed and filed.

(1) When the arbitrators or umpire have made their award, they shall sign it and shall give notice in writing to the parties of the making and signing thereof and of the amount of fees and charges payable in respect of the arbitration and award.

(2) The arbitrators or umpire shall, at the request of any party to the arbitration agreement or any person claiming under such party or if so directed by the Court and upon payment of the fees and charges due in respect of the arbitration and award and of the costs and charges of filing the award, cause the award or a signed copy of it, together with any depositions and documents which may have been, taken and proved before them, to be filed in Court, and the Court shall thereupon give notice to the parties of the filing of the award.”

- 03.** Under sub-section-1 of Section 14 of the Act, it is mandatory for the Arbitrator to sign the award and give notice in writing to the parties for making and signing the award and also claiming fee and charges payable in respect of the arbitration of the award. Whether this part was complied or not, there is no record to show the same. How the management of Salal Project came to know of the award is also not clear.
- 04.** Sub-Section 2 of Section 14 of the Act provides that the Arbitrator at the request of any of the parties to the arbitration agreement, or claiming under such party may approach the Arbitrator to file the award. It also provides that the Court may direct the arbitrator to file the award but while doing so, the payment of fee and charges due in respect of the arbitration and award have also to be stated and the Arbitrator has to file deposition and all the documents which may have been proved before him. Respondent/Salal Project has approached the Arbitrator, and Court also directed the

Arbitrator to file the award but there is no response from him. Since the arbitrator has not responded to the notices issued to him, so there is no award in respect of which the judgment could be passed. Since there is no record on file, so no order under Sections 15 & 16 of the Act could be made and consequently, no judgment under Section 17 of the Act could be passed, as under it, it is only the decree on the basis of award which could be executed.

- 05.** Since there is no such award, therefore, the petition is premature and the same is accordingly, **dismissed**.

(Sindhu Sharma)
Judge

JAMMU
1 .06.2020
Ram Murti

