



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**OMP(M) No.26 of 2024 a/w
Arb. Case No.790 of 2024**

Decided on: 9th September, 2024

State of H.P. and another **.....Objectors/Applicants**

Versus

M/s Mengi Engineering Company **.....Respondent**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?¹

For the Objectors/: Mr. L.N. Sharma, Additional Advocate
Applicants General with Ms. Leena Guleria,
Deputy Advocate General.

For the Respondent: Nemo.

Jyotsna Rewal Dua, Judge

This application, being OMP(M) No.26 of 2024,
has been moved by the objectors/applicants-State under
Section 34(3) of the Arbitration and Conciliation Act (in
short 'the Act') for condonation of delay in filing objections
under Section 34(1) of the Act.

2. An award was passed by the learned Arbitrator
on 11.10.2023, thereby dismissing the claim of the
respondent/non-applicant as also the counter-claim of the
objectors/applicants. In respect of the counter-claim filed

¹Whether reporters of print and electronic media may be allowed to see the order? Yes

by the objectors/applicants, it was held that cause of action had accrued to them on 13.11.1989, whereas, counter-claim was instituted much later, i.e. on 17.07.1999 (sic 20.11.1997).

3. As per the case pleaded by the objectors/applicants, signed copy of the award dated 11.10.2023 was received by them on 27.10.2023; On account of rainy season in the State that prolonged upto the month of October, 2023, staff of the Department remained occupied in field for restoration of road works. The file, therefore, was not attended to. In the meantime, amended award dated 14.12.2023 was also received by the objectors/applicants on 26.12.2023.

On 29.02.2024, the objector/applicant No.2 submitted the case file to the office of Superintending Engineer, 11th Circle, HPPWD Rampur, District Shimla for sending the same to the Government for obtaining opinion in the matter. The Superintending Engineer further submitted the case to the office of the Chief Engineer, HPPWD (SZ) on 04.03.2024. The matter was got examined in the Legal Cell of the office of Engineer-in-Chief, HPPWD and submitted to the Law Department on 14.03.2024. It was further examined at government level in consultation

with the Law Department. The opinion of the Law Department was conveyed to the objector/applicant No.1 on 21.03.2024. The office of the Engineer-in-Chief conveyed the decision of the Government to the objector/applicant No.2 on 26.03.2024, whereafter draft objections were submitted to the Legal Cell of the office of Engineer-in-Chief on 23.03.2024. The objections were vetted on 01.04.2024 and were eventually filed on 06.04.2024.

4. The above narration of events given in the application seeking to condone the delay in filing the objections are not cogent enough for condoning the delay. It appears that but for tossing the file from one table to the other, nothing concrete was done in the matter despite the fact that the objectors/applicants were dealing with the case of filing objections against the award passed by the Arbitrator. The time period for filing the objections under Section 34 of the Act is three months from the date of receipt of the award. Admittedly, the award dated 11.10.2023 was received by the objectors/applicants on 27.10.2023. Three months' period expired on 24.01.2024. Maximum extendable period of 30 days also lapsed on 23.02.2024. The objections were preferred on 06.04.2024. The same are hopelessly barred by the prescribed limitation

period. Objections were not even preferred during 30 days' extendable period. The objectors/applicants have also tried to take advantage out of the fact that the signed copy of the amended award dated 14.12.2023 was received by them on 26.12.2023. The so called amendment carried out in terms of communication dated 14.12.2023 is actually a corrigendum issued by the learned Arbitrator correcting the typographical errors in the original award announced on 11.10.2023, the typographical errors being in the description of the parties. It is also an admitted fact that even from the date of receipt of corrigendum dated 26.12.2023, there is delay of 11 days beyond the prescribed period of three months in the institution of present objections. As already observed, there is no cogent explanation given by the objectors/ applicants for condoning the delay.

5. In view of above, there is no merit in this application. The same is accordingly dismissed. Consequently, the main arbitration case is also dismissed alongwith pending miscellaneous application(s), if any.

September 09, 2024
Mukesh

Jyotsna Rewal Dua
Judge