



पश्चिमबङ्ग पश्चिम बंगाल WEST BENGAL

E 691388

**Before the Arbitration Committee**  
**The Calcutta Stock Exchange Limited**  
In the Matter of : Arbitration And Conciliation Act,1996

In the Matter of :  
**Arbitration Case No.15 of 2001-2002**

Between

M/s. SLA Securities Limited (Claimant)

And

Mrs. Meera Harlalka (Respondent)

**A W A R D**

This is the award of the Arbitration Committee constituted by the Board of Directors of The Calcutta Stock Exchange Limited (Formerly known as The Calcutta Stock Exchange Association Limited)

All the members of the Committee viz. Hon'ble Mr. Justice Prabuddha Sankar Banerjee and Hon'ble Mr. Justice Manik Mohan Sarkar (Both Retired Judges of the Hon'ble High Court at Calcutta) and Shri Bisnupriya Dasgupta, Ex-Member of WBHJS are present.



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It should be stated here that one letter dated 15<sup>th</sup> December, 2009 addressed to this committee (wrongly mentioned as sub-committee) by the claimant/petitioner was placed before us. On perusal of the same, it is seen that the claimant/petitioner prayed before us to release the instant case from this committee at once. In that petition he also took the specific plea that the claimant has no faith upon this sub-committee and as such prayer was made so that ex parte order should not be passed. We have gone through the said letter.

In this regard, we have to mention that in the Act itself there is no provision for releasing the matter from a committee. The Hon'ble High Court has the power to pass such order and in the absence of the same we cannot release this matter. It is to be mentioned further that before this letter, the claimant appeared before us many times and he never took the plea that he has no faith in this committee.

We have stated time and again that the committee had to adjourn the case several times on the basis of the adjournment petitions by the claimant.



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The claimant conceded that the time which was granted in his favour on the basis of his prayer be excluded from the stipulated period to complete the proceeding and that has been mentioned in our order specifically.

It is to be mentioned further that the claimant prayed for time before us many times on the plea that he would move before the Hon'ble High Court against our order dated 19<sup>th</sup> August, 2009 and in fact he admitted said fact in his letters dated 21<sup>st</sup> August, 2009 and 9<sup>th</sup> September, 2009.

Strangely, the claimant in his submission before us on 14<sup>th</sup> December, 2009 specifically mentioned that he had no occasion to move before the Hon'ble High Court. This is a clear deviation from his earlier plea. Needless to say that a person must approach before the arbitration committee with clean hands and in this case we are of clear opinion that his approach regarding the claim was not clean as it is apparent from his comments and submissions.

In view of the same the said application for releasing the matter from this committee stands rejected. The prayer for not passing any order today is also rejected.

This hearing arises out of a letter/application dated 1<sup>st</sup> June,2001 filed by the claimant viz. SLA Securities Limited through its Director, Shri Shankar Lal Agarwala to the Secretary, The Calcutta Stock Exchange Association Limited, 7, Lyons Range, Kolkata – 700 001.

On the basis of the said application/letter the Stock Exchange started arbitration case No.15/2001-02 against Mrs. Meera Haralalka. Subsequently, one Sub-Committee consisting of two Arbitrators viz. Prof. B. B. Chakrabarti and Shri Bijay Kumar Agarwal was formed by the Stock Exchange and they were entrusted with the said arbitration case.

Notices were duly served upon the parties and thereafter proceeding started.

It is to be mentioned here that the instant case has got a chequered career. Originally the case against the present OP viz. Mrs. Meera Haralalka was dismissed by the then arbitration sub-committee by order dated 25<sup>th</sup> October,2002 and an award was accordingly drawn up.

The fact relating to the filing of the instant application may be summed up thus :-

The claimant claimed Rs.22,81,200/- (as per cause title of the application) from the OP Mrs. Meera Harlalka. In fact, the claim amount was Rs.19,33,220.12P plus interest totaling to Rs.3,47,969.79P upto 31.05.2001 i.e., @24% per annum. The claimant also prayed for interest @24% per annum till realization of the entire amount.

It is the case of the claimant that he incurred loss due to purchase and sale of shares of the OP respondent. It is his further case that the claimant was entrusted to do business i.e., purchase of shares and to sell the same on behalf of the OP/Respondent and an agreement to that effect was entered into by the parties. In fact, the claimant took the plea that a sum of Rs.2,00,000/- (two lacs only) was paid by the OP/Respondent towards margin money in cash. On the basis of the agreement the claimant did business on behalf of the respondent/OP. The settlement of accounts were duly sent which were received by the OP/Respondent. In spite of the same the OP/Respondent did not liquidate the outstanding dues to the tune of Rs.19,33,220.21P. It is also

the case of the claimant petitioner that the ledger copy of accounts showing the outstanding dues in favour of claimant was duly sent and was received by the OP/Respondent.

As the respondent/OP did not liquidate the said dues, the present claimant approached the Stock Exchange for settling the dispute in between the parties.

It is to be mentioned here that parties were present when the matter was taken up for hearing by the previous sub-committee as mentioned earlier.

It is to be mentioned further that OP/Respondent did not file any written statement before the 1<sup>st</sup> sub-committee at the time of hearing.

Needless to say the claimant prayed for several adjournments before the 1<sup>st</sup> sub-committee which were allowed and subsequently the case was dismissed and an award was passed on 25.10.2002 accordingly.

Against the said order the claimant moved before the Hon'ble High Court at Calcutta which was numbered as APOT No.38 of 2003. By order dated 25<sup>th</sup> April,2005 the said case preferred by the present claimant was dismissed by the Hon'ble Single Judge. The Hon'ble Single Judge came to the opinion that the delay in passing the award was due to the adjournments which were prayed for by the claimant petitioner. The Hon'ble Single Judge refused to interfere with the order passed by the then sub-committee.

Being aggrieved by the said order of the Hon'ble Single Judge, the present petitioner filed an appeal before the Division Bench.

We have gone through the order passed by the said Hon'ble Division Bench.

It is apparent that the Hon'ble Judges of the Division Bench were of the opinion that the award was passed after the stipulated period was over and there was nothing on record to show that the present petitioner prayed for adjournments which were allowed by the arbitrators.

It is also clear from the order passed by the Hon'ble Judges of the Division Bench that nothing was found in the record with respect to adjournment petitions which was inspected by the learned lawyers for the parties.

It is to be mentioned here that when this portion of the order was brought to the notice of the officials representing the Stock Exchange, we were told that they did not send the file containing applications filed by the petitioner and other documents as no order was received from the Hon'ble High Court asking the Stock Exchange to produce those documents. It was also brought to our notice that the Stock Exchange was not made a party in the case before the Hon'ble High Court.

The Hon'ble Judges of the Division Bench set aside the award and directed to constitute a new committee and further directed that the case should be disposed of after giving the parties an opportunity to place their pleas and if necessary to allow them to adduce evidence.

On the basis of the said order of the Hon'ble High Court, a new sub-committee was formed consisting of Shri D. Paul, Shri B. P. Dasgupta and Shri Dilip Kumar Basu – all Ex-members of West Bengal Higher Judicial Services.

Before the said Sub-Committee the parties appeared. The Claimant filed two applications in which he took the plea that the sub-committee has no jurisdiction to entertain the said arbitration case. He also took the specific plea that the case is to be governed as per old Bye-Laws.

The said order of the Hon'ble High Court was passed on 16<sup>th</sup> May, 2007.

In the meantime, the Bye-Laws were amended which was duly published in the year 2003 by notification in the Gazette. The previous sub-committee took up the said two applications filed by the petitioner/claimant and disposed of the same by order dated 16<sup>th</sup> January, 2008 wherein the said sub-committee clearly came to the conclusion that "the amended provisions of the Bye-Laws neither construes anything to create new disabilities or obligations – nor impose any duties in respect of persons which were complete at the time of amending act

came into force, particularly when the matter has been referred back for arbitration to another sub-committee under order of Hon'ble Division Bench of the Calcutta High Court."

We have gone through the said order as mentioned above meticulously. In a well discussed and well reasoned order the said sub-committee finally came to the conclusion that the amended Bye-Laws will be attracted and the arbitration proceedings shall be treated as a fresh proceedings.

Subsequently, the sub-committee was reconstituted and in place of sub-committee, the arbitration committee was formed by the Board of Directors. As per direction of the Hon'ble High Court as stated earlier this matter was placed before this committee.

It is to be mentioned further that from the very first day, the claimant in course of his submissions contended that the formation of the instant committee is illegal as the same was formed by violating the Bye-Laws as on date. He further took the plea that the old Bye-Laws should be followed.

Time and again we brought his notice to the order passed by the previous sub-committee and told him that as he did not prefer any appeal/revision/writ petition before the Hon'ble High Court, the said order dated 16<sup>th</sup> January,2008 has attained its finality.

Time and again Sri Shankarlal Agarwala, director of the claimant, contended before us that the order dated 16<sup>th</sup> January,2008 was not an interlocutory order but an award and this plea was taken on the basis of one letter issued by the Stock Exchange on 18<sup>th</sup> January,2008.

The said letter dated 18<sup>th</sup> January,2008 was sent to the claimant and that was nothing but a forwarding letter accompanied by the order dated 16<sup>th</sup> January,2008. The said apparent mistake was subsequently rectified by the Stock Exchange by letter dated 17<sup>th</sup> July,2008 which was duly received by the claimant and in that letter it has been specifically mentioned that 'award' was wrongly written and that should be read as an 'order'.



Let us now come to the merit of the case :-

It is to be mentioned further that though the OP/Respondent did not file any written statement/objection before the 1<sup>st</sup> sub-committee, she filed the same before this committee on 19<sup>th</sup> August,2009. In that written statement (written notes on argument as well as statement of facts) the OP/Respondent denied the pleas which were mentioned in the claim application of the claimant petitioner. She took the specific plea that she is an handicapped person and documents in support of her said plea were filed. She denied that she had ever any occasion to invest any money in share market and she did not purchase any shares through SLA Securities Limited. She specifically denied that she ever entrusted the claimant in writing for carrying the business of buying and selling of shares on her behalf. She also denied that she ever paid a sum of Rs.2,00,000/- (two lacs only) in cash as margin money. She challenged the copy of the ledger and also took the plea that she never acknowledged the same. She denied that she ever put her signature regarding the confirmation slip dated 7<sup>th</sup> September,2000 for Rs.4,88,578.20P. She also denied that she confirmed the dues of Rs.15,12,453.20P and Rs.6,09,967.53P. She took the specific plea that as per norms of the Stock Exchange, the confirmation slip is to be signed by the party concerned who purchased or sold the shares. She also denied that she ever entered into any contract with the claimant.

In paragraph-17 of the written statement she stated specifically that she never put her signature on any confirmation slip as required by law.

It is to be mentioned here that the first sub-committee which passed the award discussed each and every plea as raised by the claimant. It is clear from the said award that as the sum involved was huge, the said sub-committee asked for some documents which were mentioned in the said award.

Let us quote the said portion :-



“ Since the amount of the claim was huge at Rs. 19,33,220.21p and to give a fair and complete chance to both the parties , the Arbitration Sub-Committee requested the claimants M/s SLA Securities Ltd. to adduce the following further documentary evidences:

- a) Whether sauda entry was entered ,as required under law, in the system in the client code as stated by the claimant themselves being client code no. M 016.
- b) A confirmation with regard to receipt of cash Rs. 2 Lacs towards margin money.
- c) Whether the client is a regular client and details of transactions with this client in past.
- d) When the margin money was obtained for 2 lacs, as claimed, under what circumstances the transactions were allowed to be carried forward beyond margin.
- e) When a sum of Rs.3,71,921.11p has been claimed to be outstanding against the Respondent's husband Sri Pawan Kumar Harlalka on 16/8/2001 , (Arbitration Case No. 14 of 2001-2002) what prompted the claimants to deal with the respondent and allow her trades beyond margin. ”

It is really strange that in support of the claim the claimant did not file any document before the sub-committee as asked for by the sub-committee.

Time and again we asked the claimant whether he will file any document or will take new plea as per direction of the Division Bench. We further asked the claimant whether he wanted to produce any evidence in support of his claim. It is clear from our last order that he specifically answered that he will not produce any document, nor will adduce any evidence.

Finding no other alternative, we closed the hearing of the case.

We also accept the opinion of the 1<sup>st</sup> sub-committee that considering the huge amount involved, the approach of this committee should be cautious. It is absolutely necessary to go through the original documents , xerox copies of which were filed by the claimant as the OP/Respondent denied that she ever entered into any agreement in between the parties. The OP/Respondent also took the specific plea that she never signed on any confirmation slip which is, as per her plea, mandatory as per the Bye Laws of the Stock Exchange.

It is the case of the claimant/petitioner that he entered into an agreement with the OP/Respondent and in support of the same he filed the xerox copy of the said agreement.

We have gone through the said xerox copy and we must say that on the basis of the same (very bad xerox copy) it is impossible for this committee to say whether the OP/Respondent ever signed the same. The best way to verify the genuineness of the signatures by this committee was to compare the signatures on the original agreement along with the signatures given by the OP/Respondent in her written notes on argument as well as the statement which has been filed before us on 19<sup>th</sup> August, 2009.

It is to be mentioned further that the claimant never challenged that the OP/Respondent is a handicapped lady. The claimant/petitioner never asked this committee to compare the signatures of the OP/Respondent as appear in the written notes on argument with the signatures on the alleged agreement (original) which was entered into in between the parties.

Time and again we requested the claimant whether he will file any document in support of his claim as directed by the Hon'ble High Court and his answer was in the negative.

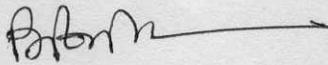
In the absence of the same, it is impossible for this committee to come to the conclusion that there was an agreement entered into in between the parties by which the OP/Respondent entrusted/authorized the claimant to do business of purchase of shares and selling of the same on her behalf.

Let us now come to the other points viz. confirmation of the balance which is mandatory as per the Bye-Laws.

In support of the claim petition the claimant petitioner filed some xerox copies of the confirmation slips. Strangely, the said documents which were made annexures to the application do not bear the signature of OP/Respondent. In this connection, we must mention that the OP/Respondent specifically denied that she ever received any confirmation slip as mentioned in the claim application. She also took the specific plea that she never put her signature on any of the confirmation slip and confirmed the amount which was allegedly due to the claimant.

We have mentioned in our order earlier that it is apparent from the approach of the claimant/petitioner that his intention is to harass one lady (OP/Respondent) who is physically handicapped.

In view of our above discussions and also on the basis of documents which are available before us, we are of the opinion that the claimant/petitioner failed to make out any case against the OP/Respondent and accordingly the instant claim application is dismissed. Award is hereby drawn up and the same be sent to the parties within 10 days of the Award.



Shri B.P. Dasgupta, WBHJS(Retd)  
06.01.2010



Hon'ble Justice M.M. Sarkar(Retd)  
06.01.2010



Hon'ble Justice P.S. Banerjee (Retd)  
06.01.2010