

permission of the Panchayat Samiti from more than three consecutive ordinary meetings. Had the legislature intended that a member returned to the Samiti from among the producer-members of Market Committees should vacate his seat on his ceasing to be a member of such Committee, the legislature could not have failed to say so while enacting section 15.

(9) We thus find that the appellant was not entitled to any relief. The appeal is dismissed with costs.

K. S. K.

APPELLATE CIVIL

BEFORE C. G. SURI, J.

BHAKRA MANAGEMENT BOARD.—Appellant.

versus

S. C. SARIN ETC.—Respondents.

First Appeal From Order No. 166 of 1970.

March 26, 1971.

Punjab Reorganisation Act (XXXI of 1966)—Sections 67 and 79—Contract, containing an arbitration clause between the Government contractor and Punjab Electricity Board, before 1966—Dispute arising out of the contract—Whether can be referred to the Superintending Engineer of the newly constituted Punjab Electricity Board after the reorganisation of Punjab in 1966—Bhakra Management Board constituted under section 79—Whether a successor to the Punjab Electricity Board and such a dispute—Whether can be referred to the arbitration of Superintending Engineer of the Bhakra Board.

Held, that under clause (b) of sub-section (4) of section 67 of Punjab State Electricity Board all assets, rights and liabilities which would otherwise have passed to the State of Punjab by or under the provisions of sub-section (3), passed to the new Board of that name instead of to the successor State of Punjab. Where a contract, containing an arbitration clause was entered into between a Government contractor and Punjab Electricity Board before 1966 and a dispute arises out of the contract, such a dispute can be referred to the Superintending Engineer of the newly constituted Punjab State Electricity Board. The fact that the Bhakra Management Board has been constituted under section 79 of the Act for the administration, maintenance and operation of certain specified works has no bearing

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on the point of reference to the arbitration. The Bhakra Board is not a successor to the Punjab Electricity Board and the Superintending Engineer of the former Board has no right to arbitrate in the matter of the disputes arising out of the above said contract. (Para 5 & 5).

First Appeal from the order of the Court of Shri R. C. Paul, Sub-Judge 1st Class, Ludhiana, dated 28th August, 1970, ordering that the matter be referred to him for arbitration. He shall file his award within four months time from 28th August, 1970 and directing the parties to appear before him on 10th October, 1970.

K. S. NEHRA, ADVOCATE, for the appellant.

UJJAL SINGH SAHNI, ADVOCATE, for the respondents.

JUDGMENT.

SURI, J.—This appeal has been filed by the Bhakra Management Board against the order of Sub-Judge 1st Class, Ludhiana, allowing the application of respondent No. 1 under section 20 of the Arbitration Act, 1940, for filing an arbitration agreement and making a reference for the settlement of the disputes between the parties to the arbitration of Superintending Engineer, Transmission Construction Circle No. 1, Punjab State Electricity Board, Patiala, respondent No. 3.

(2) On 18th November, 1965, respondent No. 1, who is a Government contractor, was allotted the work of construction of well type foundations at location No. 233 in Sutlej River Crossing (81 feet deep) of 220 K.V. Bhakra-Ludhiana line by the Superintending Engineer of the then Punjab State Electricity Board. An agreement was executed between the parties on the usual printed *pro-forma* which contained the following arbitration clause :—

“25-A. If any question, difference or objection whatsoever shall arise in any way connected with or arising out of this instrument or the meaning or operation of any part thereof or the rights, duties or liabilities of either party, then save in so far as the decision of any such matter is hereinbefore provided for and has been so decided, every such matter including whether its decision has been otherwise provided for and/or whether it has been finally decided accordingly, or whether the contract should be terminated or has been rightly terminated and as regards the rights and

obligations of the parties as the result of such termination shall be referred for arbitration to the Superintending Engineer of the Transmission Construction Circle No. 1, Punjab State Electricity Board, Patiala, acting as such at the time of reference within six months from the date a registered notice is issued to the contractor that the final pay bill is ready for payment, and his decision shall be final and binding and where the matter involves a claim for or the payment or recovery or deduction of money, only the amount, if any, awarded in such arbitration shall be recoverable in respect of the matter so referred.

If the matter is not referred to arbitration within the specified period, all the rights and claims under the contract shall be deemed to have been forfeited and absolutely barred."

While the work allotted to contractor was in progress, the Punjab Reorganisation Act, 1966, came into force and the then existing State of Punjab was reorganised into the State of Punjab and Haryana including the Union Territory of Chandigarh and the transferred territory to the then Union Territory of Himachal Pradesh. It is the contractor's case that the newly constituted Punjab State Electricity Board has stepped into the shoes of the earlier Board of that name with whom he had entered into the contract for this work. The appellant's case, however, is that the newly constituted Bhakra Management Board is the successor Board and that the Superintending Engineer of the Bhakra Management Board has the right to arbitrate in the matter of the disputes arising out of this contract. It was also alleged that full and final payment of all claims had been made to the contractor, that he had passed a receipt to that effect, and that there were no disputes in existence now which could be referred to arbitration after that final payment. It is also one of the grounds of appeal that the impugned judgment is not a speaking order and is on that account defective.

(3) Section 67 of the Punjab Reorganisation Act, 1966, is to the following effect :—

"67. (1) The following bodies corporate, constituted for the existing State of Punjab, namely—

(a) the State Electricity Board constituted under the Electricity Supply Act, 1948 (54 of 1948); and

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- (b) the State Warehousing Corporation established under the Warehousing Corporations Act, 1962 (58 of 1962), shall, on and from the appointed day, continue to function in those areas in respect of which they were functioning immediately before that day subject to the provisions of this section and to such directions as may, from time to time, be issued by the Central Government.
- (2) Any directions issued by the Central Government under sub-section (1) in respect of the Board or the Corporation may include a direction that the Act under which the Board or the Corporation was constituted shall, in its application to that Board or Corporation, have effect subject to such exceptions and modifications as the Central Government thinks fit.
- (3) The Board or the Corporation referred to in sub-section (1) shall cease to function as from, and shall be deemed to be dissolved on the 1st day of November, 1967, or such earlier date as the Central Government may, by order, appoint, and upon such dissolution, its assets, rights and liabilities shall be apportioned between the successor States in such manner as may be agreed upon among them within one year of the dissolution of the Board or the Corporation, as the case may be, or if no agreement is reached, in such manner as the Central Government may, by order, determine.
- (4) Nothing in the preceding provisions of this section shall be construed as preventing the Government of any of the successor States from constituting at any time on or after the appointed day, a State Electricity Board or a State Warehousing Corporation for that State under the provisions of the Act relating to such Board or Corporation; and if such a Board or a Corporation is so constituted in any of the successor States before the dissolution of the Board or the Corporation referred to in sub-section (1),—
- (a) provision may be made by order of the Central Government enabling the new Board or the new Corporation to take over from the existing Board or Corporation all

or any of its undertakings, assets, rights and liabilities in that State, and

(b) upon the dissolution of the existing Board or Corporation, any assets, rights and liabilities which would otherwise have passed to that State by or under the provisions of sub-section (3) shall pass to the new Board or the new Corporation instead of to that State."

(4) As a new Punjab State Electricity Board has been constituted, the old Board of that name has been dissolved by a notification, dated 2nd May, 1967, which is to the following effect:—

"In exercise of the powers conferred by sub-section (3) of section 67 of the Punjab Reorganisation Act, 1966 (31 of 1966), the Central Government hereby directs that the Punjab Electricity Board constituted under the Electricity (Supply) Act, 1948 (58 of 1948), for the State of Punjab as it existed immediately before the 1st day of November, 1966, which has continued to function under sub-section (1) of that section, shall cease to function as from and shall be dissolved on, the 2nd day of May, 1967."

Clause (b) of sub-section (4) of section 67 of the Act may, therefore, appear to be applicable to the case, and upon the dissolution of the then existing Punjab State Electricity Board all assets, rights and liabilities which would otherwise have passed to the State of Punjab by or under the provisions of sub-section (3), passed to the new Board of that name instead of to the successor State of Punjab. The learned trial Judge may, therefore, appear to have been fully justified in referring the dispute to the Superintending Engineer of the newly constituted Punjab State Electricity Board.

(5) The fact that the Bhakra Management Board has been constituted under section 79 of the Punjab Reorganisation Act, 1966, for the administration, maintenance and operation of certain specified works, does not appear to have any bearing on the point in controversy. Even before the coming into force of the Punjab Reorganisation Act, 1966, there was a Management or Control Board for the Bhakra Project, but we are not concerned here as to what were the arrangements *inter se* between the old or the new Punjab State Electricity Board *qua* the Bhakra Management or Control Board.

The learned trial Judge may, therefore, appear to have been right in referring the dispute to the Superintending Engineer of the successor Punjab State Electricity Board who was the officer named as the arbitrator by mutual agreement of the parties. Shri K. S. Nehra, who appears for the appellant Board, then relied on a Single Bench judgment of this Court in *J. M. Gupta, Executive Engineer, Hoshiarpur, and others v. The Union of India and others* (1). In that case a large number of employees of the composite Punjab State Electricity Board had filed a writ petition for their absorption or allocation in the new Electricity Boards. Directions were sought that the respondents should allocate the employees of the old Punjab State Electricity Board on some uniform basis and in accordance with some recognised principles consistent with natural justice. It was observed by the learned Single Judge that whereas the Punjab Reorganisation Act provided for the distribution of assets and liabilities of the composite Punjab State Electricity Board, it had not made any provision for the absorption of its employees and that the new Boards were, therefore, not under any obligation to absorb the employees and if they had done so, it was only in the interest of the employees themselves. The facts of this case are distinguishable and it does not have any direct bearing on the case in hand.

(6) The appellants have not produced any document to show that there has been a full and final payment with regard to all the items of work. In any case, this is a matter which can be taken up during the arbitration proceedings in support of the argument that the Government has no further liability to the contractor in respect of this particular project or work.

(7) The learned Sub-Judge has given reasons for making the reference to the Superintending Engineer of the new Punjab State Electricity Board. There is no law prescribing the minimum length of a judgment and it cannot be said that the impugned judgment is not a speaking order.

(8) The appeal is without any force and is dismissed with costs. Counsel fee Rs. 100. The arbitrator's records be returned to him forthwith so that there is no further delay in the proceedings before him.

K.S.K.