

\$ITEM NO.115

COURT NO.8

SECTION XV

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 7233 OF 2004

M/S HINDUSTAN PETROLEUM CORPORATION LTD

Appellant (s)

VERSUS

RAJASTHAN FAUJI RAKSHAK CO-OP.SCTY LTD.

Respondent(s)

(With office report)

Date: 10/09/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Appellant(s) Mr. Shambhu Prasad, Adv.

Ms. Manjula Gupta, Adv.

Mr. Prem Sunder Jha, Adv.

For Respondent(s) Mr. K. Vijayan, Adv.

Ms. Jyoti Mendiratta, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Heard learned counsel for the parties.

The appeal is allowed and the impugned order is set aside and the dispute is directed to be referred to the named arbitrator as per Clause 32 of the Agreement. All the questions of law and fact are left open to be urged by the parties before the arbitrator.

Appeal allowed. No order as to the costs.

(Ajay Kr. Jain)  
Court Master

(Indu Satija)  
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL

NO. 7233

OF 2004

Hindustan Petroleum Corporation  
Ltd.

....

Appellant

Versus

Rajasthan Fauji Rakshak Co-op.  
Society Ltd.

....

Respondent

O R D E R

Heard learned counsel for the parties.

This appeal has been filed against the judgment and order dated 26.2.2004 of the High Court of Judicature at Rajasthan, Jaipur Bench whereby the revision petition filed by the appellant herein has been dismissed.

We are not going into the merits of the controversy. It appears that there was an agreement between the parties which provided for arbitration. Clause 32 of the agreement provided that any dispute or difference of any nature whatsoever or regarding any rights, liability, omissions etc. arising out of or in relation to agreement/contract shall be referred to the sole arbitration of the Chairman and Managing Director/Director (M) of the Corporation or some officer of the corporation who may be nominated by them.

Despite a clear term as provided in Clause 32, the District Judge, Jaipur Nagar, Jaipur on the application of the respondent appointed the sole arbitrator.

In our opinion, if there is a named arbitrator in the agreement then ordinarily the dispute should be referred to the named arbitrator. We allow this appeal and we set aside the impugned judgment and order of the High Court and direct that the dispute shall be referred to the named arbitrator as per Clause 32 of the agreement. All the questions of law and fact are left open to be urged by the parties before the arbitrator.

Appeal allowed. No order as to the costs.

.....J.  
(MARKANDEY KATJU)

.....J.  
(ASOK KUMAR GANGULY)

NEW DELHI;  
SEPTEMBER 10, 2009