

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(THROUGH VIDEO CONFERENCING)**

CJ Court

Case: Arb P No. 51/2023

.....Appellant/Petitioner(s)

M/s Aurea Sivasurchetvaka Aircab Gh Services and ors.

Through :- Mr. M Y Bhat Sr. Advocate with
Mr. Sajjid Ahmad, Advocate.

v/s

Airport Authority of India and another

.....Respondent(s)

Through :- Mr. M M Dar, Advocate.

CORAM: HON'BLE THE CHIEF JUSTICE

ORDER

02.02.2024

01. Heard Mr. M Y Bhat Senior counsel assisted by Mr. Sajjid Ahmad, learned counsel appearing for the petitioners and Mr. M M Dar, learned counsel for the respondents.

02. The petition arises out of alleged dispute arising out of the work contract for ground handling works at airport in Srinagar, which was allotted to the petitioner on 08.08.2023 in connection with which a concession agreement was executed between the parties.

As per the agreement, the governing law and dispute resolution has been provided under Clause 15 of the Agreement.

The relevant part of Clause 15 reads as under:

“15.1 This Agreement shall be governed by the laws of India and courts at the city of the Airport i.e. Srinagar shall have the exclusive jurisdiction in all matters arising out of or in connection with the Agreement.

15.2 The Parties shall use their respective reasonable endeavours to settle any dispute, difference, claim, question or controversy between the Parties arising out of or in relation to this Agreement (including the interpretation)('Dispute') or the material breach, termination or invalidity thereof amicably between themselves through negotiation within 30 days from the date on which either party has sought resolution of the dispute from the other party. For the purposes of clarity, it is stated that, Dispute arising out of this Agreement shall not include the disputes wherein the decision is otherwise hereinbefore expressly provided for or to which the AAI Act 1994 and the rules framed there under which are now in force or which may hereafter come into force, are applicable.

15.3 However, any dispute which remains unresolved amiably, the same shall be referred to Dispute Resolution Committee (DRC) set up by Authority. The DRC will give its recommendation within 45 days of the reference of the case.

Further, in case, the dispute remains unresolved, the same shall be referred to an arbitral tribunal comprising three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected, and in the event of disagreement between the two arbitrators, the appointment shall be made in accordance with the Arbitration and Conciliation Act, 1996."

03. The learned counsel for the parties submit that dispute has arisen due to the termination of the contract which was issued in favour of the petitioner. Accordingly, certain attempts were made to resolve the disputes which did not fructify. The matter was, accordingly, referred to the dispute resolution committee in terms of the Clause 15.3 however, there also the dispute could not be resolved successfully. Accordingly, in terms of aforesaid Clause 15.3, the dispute would

be required to be resolved by arbitral tribunal comprising of three arbitrators, of which each party shall select one arbitrator and the third to be appointed by the two arbitrators so selected by the parties and, in the event, of disagreement between the two arbitrators, the appointment shall be made in accordance with the Arbitration and Conciliation Act, 1996. It has been submitted that though the parties have appointed their respective arbitrators, there is disagreement for appointment of the third arbitrator between the parties. Accordingly, present application has been filed before this Court.

04. As far as the aforesaid averments made by the petitioner is concerned, same has not been seriously contested by the respondents.

05. Thus, it will be necessary for this Court to seek appointment of the third arbitrator in terms Clause 15.2 and 15.3 of the Agreement. Hence, this Court proceeds to appoint Mr. Altaf Haqani, Senior Advocate as third arbitrator who in association with other remaining arbitrators shall constitute the arbitral tribunal to resolve the dispute in accordance with law.

06. Copy of this order be forwarded to Mr. Altaf Haqani, Senior Advocate informing him about his appointment subject to his consent.

(N. KOTISWAR SINGH)
CHIEF JUSTICE

JAMMU
02.02.2024
SUNITA/PS