

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

ARB-149-2015

Date of decision:- 30.10.2015

M/s Ajit Construction Co.

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE

Present: Mr. Sumit Gupta, Advocate,
for the petitioner.

Mr. Rahul Dev Singh, Deputy Advocate General, Haryana.

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S.J. VAZIFDAR, A.C.J. (ORAL)

This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 for the appointment of an arbitrator.

2. The parties had entered into a construction contract.
3. The following arbitration clause in the agreement in so far as it is relevant reads as under:-

“3. Arbitration (GCC Clause 25.3)

The procedure for arbitration will be as follows:

25.3 (a) In case of dispute or difference arising between the employer and a domestic contractor relating to any matter arising out of or connected with this agreement, such disputes or difference shall be settled in accordance with the Arbitration and Conciliation Act, 1996. The parties shall make efforts to agree on a sole arbitrator and only if such an attempt does not succeed and the Arbitral Tribunal consisting of 3 arbitrators one each to be appointed by the employer and the contractor and the third arbitrator to be chosen by the two arbitrators so appointed by the parties to act as presiding arbitrator shall be considered. In case of failure of the two arbitrators appointed

by the parties to reach upon a consensus within a period of 30 days from the appointment of the arbitrator appointed subsequently, the presiding arbitrator shall be appointed by the Council, Indian Roads Congress.

(b) The Arbitral Tribunal shall consist of three arbitrators one each to be appointed by the employer and the contractor. The third arbitrator shall be chosen by the two arbitrators so appointed by the parties and shall act as a presiding arbitrator. In case of failure of the two arbitrators appointed by the parties to reach upon a consensus within a period of 30 days from the appointment of the arbitrator appointed subsequently, the presiding arbitrator shall be appointed by the Council, Indian Roads Congress.

(c) If one of the parties fails to appoint its arbitrator in pursuance of sub-clause (a) and (b) above within 30 days after receipt of the notice of the appointment of its arbitrator by the other party, then the Council, Indian Roads Congress shall appoint the arbitrator. A certified copy of the order of the Council, Indian Roads Congress, making such an appointment shall be furnished to each of the parties.”

4. The agreement, therefore, prescribes the procedure for the appointment of an arbitrator if the parties fail to appoint an arbitrator.

5. Learned counsel appearing on behalf of the petitioner states that an application has been made to the Council, Indian Roads Congress for the appointment of the arbitrator. The same is, however, not on record. I will, however, presume that such an application has been made.

6. The petition is accordingly disposed of by directing the parties to make an application to the Council, Indian Roads Congress for the appointment of an arbitrator/arbitrators in accordance with the arbitration agreement, if such an application has not already been made.

7. In the event of the Council, Indian Roads Congress not doing the needful within a period of four weeks of the receipt of a certified copy of this order, the petitioner is at liberty to make an application in this petition itself for the appointment of an arbitrator/arbitrators.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

30.10.2015
Amodh