

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

ARB-20-2015 (O&M)

Date of decision:- 27.11.2015

M/s G.K. Contactors

...Petitioner

Versus

Union of India and others

...Respondents

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

Present: Mr. Piyush Kant Jain, Advocate,
and Mr. Viren Jain, Advocate,
for the petitioner.

Dr. Ashwinie Kumar Bansal, Advocate,
for respondent No. 1 – UOI.

Mr. Sandeep Vermani, Advocate,
for respondents No. 2 and 3.

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

This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 for the appointment of an arbitrator.

2. The parties had entered into an agreement which admittedly contains an arbitration clause. The respondents terminated the agreement on 24.05.2011. The petitioner invoked the arbitration agreement on 07.06.2012. The respondents not having appointed an arbitrator in accordance with clause 63 of the agreement, the petitioner filed this petition on 24.12.2014. The respondents only by a letter dated 16.01.2015 proceeded to have an arbitrator appointed in accordance with clause 63. By this time, the respondents had forfeited their right to appoint an arbitrator.

3. In the facts and circumstances of this case, I am not inclined to appoint an arbitrator from among the panel suggested by the respondents keeping in mind not only the fact that the respondents have forfeited their

right to appoint an arbitrator, but also the fact that there have been serious disputes between the parties relating to other contracts in which criminal proceedings had also been adopted.

4. The arbitration clause is admitted. It is Clause 63 of the general terms and conditions. The respondents contend that some of the claims are excepted matters and the arbitrator would not be entitled to adjudicate the same. It would always be open to the respondents to raise this contention before the arbitrator. If, in view of the arbitration clause, the arbitrator lacks inherent jurisdiction to adjudicate upon the claims and yet do so, it is further open to the respondents to challenge the award, if any, even on that basis.

5. Subject to the aforesaid clarification, the petition is disposed of by appointing Shri S.M.S. Mahil, a former District and Sessions Judge, Punjab as the sole arbitrator.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

27.11.2015

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