

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Arbitration Case No. 131 of 2016 (O&M)
Date of Decision: 11.11.2016

M/s B.K.Engineering Enterprises

..Petitioner

Versus

Union of India and others

..Respondents

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

Present : Mr. Shiv Kumar Goyal, Advocate, for the petitioner.
Mr. Pankaj Gupta, Senior Panel Counsel, for the Union of India.

S.J.VAZIFDAR C.J. (Oral)

This is a petition under section 11(6) of the Arbitration & Conciliation Act, 1996 for the appointment of an Arbitrator.

2. The respondents had invited tenders. The petitioner's bid was accepted. The agreement contains the following condition which was introduced by an amendment:-

9.	2	Add the following new condition under Chapter-IV:-
	27	"71. Jurisdiction of Courts." "71. Jurisdiction of Courts:- Irrespective of the place of issue of tenders, the place of acceptance of tenders, the place of execution of contract or the place of payment under the Contract, the contract shall be deemed to have been made at the place from where the acceptance of tenders has been issued and the work is executed/executable. The Courts of the place from where the acceptance of the tender has been issued or the place where the work is executed/under execution shall alone have jurisdiction to decide any dispute arising out of or in respect of the Contract".

3. The acceptance of the tender had been issued from Kolkata. In view of above clause, this Court would have no jurisdiction to entertain the petition under section 11(6) of the Act. Accordingly, the petition is dismissed with liberty to file the petition before the appropriate Court.

4. However, considering the nature of the dispute, the parties may try and settle the matter through mediation. The parties shall appear before the A.D.R. Centre, Chandigarh on 28.11.2016 at 11.00 AM in the first instance and thereafter as directed by the mediator.

Needless to add that the same is entirely without prejudice to the rights and contentions of the parties and will not result in the respondents having submitted to the jurisdiction of this Court.

11.11.2016
'ravinder'

(S.J.VAZIFDAR)
CHIEF JUSTICE

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√