

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

CR No.319 of 2016

Date of decision : 18.01.2016

Union of India and ors.

...Petitioners

Versus

M/s Jagdish Raj and brothers and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Dr. Ashwinie Kumar Bansal, Advocate for the petitioners.

AMIT RAWAL, J. (Oral)

The Union of India is aggrieved of the order dated 14.05.2015, whereby under the provision of the Old Act i.e. Arbitration Act, 1940, Retired Additional District Judge, has been appointed as an Arbitrator.

Dr. Ashwinie Kumar Bansal, learned counsel appearing on behalf of petitioner submits, that as per the terms and conditions of the agreement, Retired Chief Engineer was appointed as an Arbitrator. After holding the arbitration proceedings for the period of four months, he resigned on 29.10.2012. The Contractor approached the Court by moving the application under the Act, 1940 for the appointment of the Arbitrator.

As per the Clause 25 of the agreement, it is only the Chief Engineer who has

prerogative to appoint the Arbitrator and not in the manner and mode, as has been adopted by the Arbitrator and in case no Arbitrator is appointed, the arbitration agreement clause is extinguished.

I have heard learned counsel for the petitioner and appraised the paper book.

Once it was found that there was a dispute between the Contractor and the Department, the Arbitrator was appointed, who submitted his resignation on 29.10.2012. In my view, once arbitration proceedings had been initiated, the arbitration clause cannot cease to exist, in case Department fails to appoint the new Arbitrator. The Contractor rightly adopted the procedure prescribed under the Old Act for appointment of the Arbitrator. The purpose of resolution of dispute through arbitration is to get the adjudication of the dispute as expeditiously as possible but not to prolong or protract. However, effort has been made in the present revision petition to follow such procedure which should not encouraged.

Keeping in view aforementioned facts, I do not intend to differ with the findings rendered by trial Court for appointment of the Arbitrator.

There is no merit in the petition.

Dismissed.

18.01.2016

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**(AMIT RAWAL)
JUDGE**