

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Arbitration Case No. 14 of 2017

Date of Decision: 14.07.2017

M/s Jyoti Build Tech Pvt. Ltd. Buildings

.....Petitioner

versus

Punjab Water Supply and Sewerage Board and another

.....Respondents

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

Present : Mr.Sunil Chadha, Senior Advocate with
Mr. Dheeraj Mahajan, Advocate, for the petitioner.
Mr. Vijay Kumar Kaushal, Advocate, for the respondents.

S.J.VAZIFDAR, CHIEF JUSTICE (ORAL)

This is an application under section 11 of the Arbitration & Conciliation Act, 1996 for the appointment of sole arbitrator to adjudicate upon the disputes and differences between the parties.

2. The parties had entered into a contract which contains an arbitration agreement. Section 4 of the bid document which relates to Disputes and Arbitration "DA" insofar as it is relevant reads as under:-

"(v) All disputes or differences in respect of which the decision is not final and conclusive shall, at the request of either party made in a communication sent through registered AD Post, be referred to the sole arbitration of the Superintending Engineer of the circle concerned in the PWSSB, acting as such at the time of reference unless debarred from acting as an Arbitrator by an order of the Managing Director (MD), PWSS Board/Court, in which event, the Managing Director, shall appoint any other technical officer not below the rank of Superintending Engineer to act as an Arbitrator on receipt of a request from either party.

(vi) MD, PWSSB, shall have the authority to change the arbitrator on an application by either the Contractor or

Engineer requesting change of the arbitrator giving reasons thereof, either before the start of the arbitration proceedings or during the course of such proceedings. The arbitration proceedings would stand suspended as soon as an application for change of an Arbitrator is filed before the MD, PWSSB and a notice thereof is given by the applicant to the Arbitrator. The MD after hearing both the parties may pass the speaking order rejecting the application or accepting to change the Arbitrator simultaneously, appointing a technical officer not below the rank of a Superintending Engineer as Arbitrator under the contract. The new Arbitrator so appointed may enter upon the reference a fresh or he may continue the hearings from the point these were suspended before the previous Arbitrator.”

3. Disputes and differences have admittedly arisen between the parties. The petitioner invoked the arbitration by its notice dated 31.12.2016. Even assuming that the notice is invalid for any reason, it would make no difference as the Managing Director/CEO is empowered to appoint only an officer of the respondents which is not permissible in view of the amendment to the Act.

4. The petition is, therefore, disposed of by appointing Justice N.K.Sodhi, former Chief Justice of the Karnataka High Court as the sole arbitrator to adjudicate upon the disputes and differences between the parties. The arbitrator shall fix his own fee.

(S.J. VAZIFDAR)
CHIEF JUSTICE

14.07.2017
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Whether speaking/reasoned	Yes/No/
Whether reportable	Yes/No/