

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

Arbitration Case No.230 of 2016 (O&M)
DATE OF DECISION: 03.11.2017

M/s Brij Gopal Construction Company Pvt.Ltd.

....Petitioner

versus

Haryana State Industrial & Infrastructure
Development Corp. Ltd.

.....Respondent

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

Present: Mr. Suvir Kumar, Advocate for the
petitioner

Mr. Pritam Saini, Advocate,
for the respondent.

S.J. VAZIFDAR, CHIEF JUSTICE: (Oral)

This is an application under section 11 of the Arbitration & Conciliation Act, 1996, for appointment of an Arbitrator.

2. The parties had entered into a contract. Clause 25-A thereof admittedly contains an arbitration agreement. Disputes and differences have admittedly arisen between the parties. The petitioner accordingly invoked the arbitration clause by its letter dated 18.02.2016. This was followed by a reminder dated 05.03.2016. The respondents, however, by their letter dated 19.05.2016 rejected the request.

3. The only objection is that the arbitration was not invoked within six months of

the periods mentioned in clause 25-A(9). However, clause 25-A(9) contains six dates for the commencement of the period of six months and provides that the claim of arbitration ought to be within six months of the last of such dates. Clause 25-A(9)(e) stipulates the commencement period as being the date of receipt of an intimation from the respondents' officers that final payment due to or recovery from the contractor i.e. the petitioner had been determined which he may acknowledge and/or receive. The respondents were unable to produce any such letter. If such a letter does not exist, the period of six months would not even commence. In the facts and circumstances of the case even this dispute ought to be left for the determination of the arbitrator.

4. In view thereof, it is not necessary to consider the contention on behalf of the petitioner that sub clause (9) of clause 25-A cannot bar a claim which is otherwise within the period of limitation.

5. In the circumstances, the petition is disposed of by appointing Mr. Justice Vikramjit Sen, a former Judge of the Supreme Court of India, as the sole arbitrator to adjudicate upon the disputes and differences between the parties.

03.11.2017
ravinder

(S.J. VAZIFDAR)
CHIEF JUSTICE