

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

**ARB No. 155 of 2017
Decided on : 18.05.2018**

Hydrotech Paryavaran (India) Pvt. Ltd.

... Petitioner(s)

Versus

Punjab Water Supply & Sewerage Board and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL,
ACTING CHIEF JUSTICE**

PRESENT: Mr. Anupam Singla, Advocate
for the petitioner(s).

Mr. Vijay Kumar Kaushal, Advocate
for the respondents.

AJAY KUMAR MITTAL, A.C.J. (Oral)

This is a petition under Section 11 of the Arbitration & Conciliation Act, 1996 (in short 'the Act of 1996') for appointment of an independent sole arbitrator.

2. The parties had admittedly entered into an agreement bearing No. C.A. 43 of 2013-2014. Clause 25 contains the details with regard to the 'disputes and arbitration', wherein, Sub-Clause (v) of Clause 25 reads thus:-

“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, PWSS Board, Chandigarh/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.”

3. According to the aforesaid Clause 25(v), any technical officer not below the rank of Superintending Engineer can act as an arbitrator on a request from either of the party. Learned counsel for the petitioner submitted that the claim of the petitioner has already been rejected by the Superintending Engineer under Clause 2 of the Agreement and the provisions of the Arbitration and Conciliation (Amendment) Act, 2015, wherein, under Section 12(1)(b) read with the Fifth Schedule, various grounds have been enumerated which give rise to justifiable doubts in respect of employees etc. as to the independence or impartiality of arbitrators. The relevant part reads thus:-

“The following grounds give rise to justifiable doubts as to the independence or impartiality of arbitrators:

Arbitrator's relationship with the parties or counsel

1. The arbitrator is an employee, consultant, advisor or has any other past or present business relationship with a party.”

4. In view of the above, the parties have agreed that let an independent arbitrator be appointed.

5. Accordingly, the petition is disposed of by appointing Sh. B.R. Gupta, Addl. District & Sessions Judge (retd.), #587, Sector 8-B, Chandigarh, as the sole arbitrator. The fees shall be as per the Chandigarh Arbitration Centre (CAC) (Administrative Cost and Arbitrators' Fees) Rules, 2014.

May 18, 2018
J.Ram

(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No