

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-2557-2018

Date of decision : 08.08.2018

M/s Metro Engineers

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.Aalok Jagga, Advocate
for the petitioner.

Ms.Akshita Chauhan, AAG, Punjab.

AMOL RATTAN SINGH, J.(ORAL)

By this petition, the petitioner challenges the order of the learned Additional District Judge, Chandigarh, dated 28.03.2018, by which the prayer made by the petitioner in the application filed under Section 14 of the Arbitration and Conciliation Act 1996 (hereinafter referred to as the 'Act'), for substitution of the Arbitrator seized of the arbitration proceedings between the petitioner and the respondent State of Punjab, has been rejected, though extension of time for conclusion of arbitration proceedings has been granted.

As already noticed in the order of this Court dated 01.08.2018, learned counsel for the petitioner had submitted that the respondent-State of Punjab also had not opposed the change of the Arbitrator, in view of the fact that the Arbitrator was coming from Delhi on each occasion and therefore the expense was working out to be too high.

Notice having been issued in this petition, with learned State

counsel having accepted notice on the asking of this Court on the last date of hearing, she, on instructions from Shri Harjit Singh, Executive Engineer, Water Supply and Sanitation, Division No.2, Ropar, does not refute what learned counsel had stated with regard to the States' stand on the change of the Arbitrator, i.e. Sh. K.B. Rai, but submits that the Arbitrator proposed to be appointed by the petitioner, i.e. Sh. R.R. Garg, retired Chief Engineer, is not acceptable to the State.

Mr. Jagga, learned counsel for the petitioner, first points to the fact that said Arbitrator is duly empanelled as such as per the communication addressed to the said person (Sh.R.R. Garg) by the coordinator of the Chandigarh Arbitration Centre running from the premises of this Court, the said communication being dated 24.12.2016, a copy of which is Annexure P-14 with the petition.

He then points to the reply filed by the respondent-State to the application filed by the petitioner under Section 14 of the Act, in paragraph 3 of which even appointment of Sh.R.R.Garg in place of the present Arbitrator is not opposed by the State.

Upon the aforesaid having been pointed out to the learned State counsel, she does not, naturally, deny the factual position, but submits that the State, on reconsideration, has reservations on the appointment of the said Arbitrator, though it does not oppose appointment of any other person on the panel.

Keeping in view the aforesaid, as regards the substitution of the existing Arbitrator I see no reason to reject the prayer of the petitioner, it not being opposed in any manner whatsoever by the respondent-State and to that extent the impugned order is set aside, with the matter remitted to the

learned Court below, which would appoint a new Arbitrator after hearing both the sides, including any objection by the respondent-State, despite what it had contended in the reply to the application filed by the petitioner; as in the opinion of this Court, if on further consideration the State has any genuine objection, it should be granted an opportunity to present it before the Court concerned.

In view of the fact that the Arbitrator has been ordered to be substituted, extension of time for conclusion of arbitration proceedings would also, naturally, be granted commensurately by the learned Additional District Judge, as that Court deems fit.

(AMOL RATTAN SINGH)
JUDGE

August 08, 2018.
D.K.

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