

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

ARB-126-2018 (O&M)
Date of decision:- 08.02.2019

Ureka Engineers

...Applicant

Versus

Engineer-in-Chief, Haryana PWD (B&R), Chandigarh and
another

...Respondents

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE

Present:- Mr. Dinesh Arora, Advocate,
for the applicant.

Mr. Deepak Balyan, Additional Advocate General, Haryana,
for the respondents.

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KRISHNA MURARI, C.J. (ORAL)

This is an application under Section 11 of the Arbitration and Conciliation Act, 1996 (in short the 'Act') seeking appointment of an arbitrator.

2. It is not disputed that in terms of the arbitration clause in the agreement, a Superintending Engineer was appointed as an arbitrator by the respondents. However, the applicant had objection to his functioning as the arbitrator mainly on the ground that after the amendment brought in the Act in 2015, since he is an employee of the respondents, he cannot function as an arbitrator and on account of this objection he did not join the arbitration proceedings. Mr. Balyan, learned Additional Advocate General, Haryana states that since the agreement between the parties containing the arbitration clause was executed in 2010 and does not contain any stipulation that the amendment brought into the Act shall govern the arbitration proceedings, hence in view of the

settled proposition of law by pronouncements of the Hon’ble Apex Court in *Aravali Power Company Private Limited Vs Era Infra Engineering Limited* (2017) 15 SCC 32 and *Government of Haryana Vs G.F. Toll Road Pvt. Ltd.* (Civil Appeal No. 27/2019, decided on 03.01.2019), the proceedings are to be governed under the old Act and, thus, there can be no hindrance in the Superintending Engineer nominated by the respondents in functioning as the arbitrator.

3. Mr. Balyan also asserts that the arbitration proceedings are still pending.

4. In view of the above statement, it is open to the applicant to join the arbitration proceedings pending before the named arbitrator.

5. At this stage, learned counsel for the applicant made a statement that the applicant shall join the arbitration proceedings.

6. That being so, the application for appointment of an arbitrator is rendered infructuous and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

08.02.2019
Anodh

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