

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

ARB No.191 of 2018 (O&M)

Date of Decision.13.12.2019

M/s Shiva Engineers and Developers

...Petitioner

Vs

State of Punjab and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Dheeraj Mahajan, Advocate
for the petitioner.

Mr. Aayush Sarna, AAG, Punjab.

-. -

JAISHREE THAKUR J. (ORAL)

1. This is a petition that has been filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the Act of 1996) for appointment of an Arbitrator to adjudicate the dispute between the petitioner and the respondents in terms of arbitration clause 24 and 25 (Annexure P-2) of the agreement entered between the parties.

2. Reply filed on behalf of the respondents is taken on record.

3. Learned counsel appearing on behalf of the petitioner would contend that after passing of Arbitration and Conciliation (Amendment) Act, 2015, it has been specifically stated that no employee or advisor or consultant of the department can be appointed as the Arbitrator, in view of the amendment made to Section 12 of the Act of 1996, therefore, an independent Arbitrator ought to be appointed.

4. Learned counsel appearing on behalf of the respondents does not oppose appointment of Arbitrator, however, states that retired Chief Engineer, Sh. Kuldeep Singh be appointed as Arbitrator.

5. I have heard learned counsel for the parties and have perused the paper book. It is an admitted fact that there is an amendment incorporated in sub-section 5 of Section 12 of the Act of 1996, which clearly stipulates that an employee of the respondent cannot be appointed as an Arbitrator. Consequently, the request for appointing Sh. Kuldeep Singh as sole Arbitrator is hereby declined. In such circumstances, this Court deems it appropriate to appoint Sh. Ajay Kumar Sharma, District & Sessions Judge (retd), resident of #41, Windsor Park, Gulab Devi Road, Jalandhar (M-09417316877) as sole Arbitrator to settle the dispute between the parties. Ordered accordingly. Fee of the Arbitrator shall be payable as per the Chandigarh Arbitration Centre (CAC) Rules, 2018.

6. The petition stands allowed in above terms.

(JAISHREE THAKUR)
JUDGE

December 13, 2019

Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No