

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

**Arbitration Case No. 223 of 2018
Date of Decision: 15.11.2019**

Shellys Media Track Pvt. Ltd.

..... Petitioner

Versus

The Senior Divisional Commercial Manager, Northern Railway,
Ambala Division, Ambala Cantonment – 1330001

..... Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Udit Garg, Advocate,
for the petitioner.

Mr. Amit Kumar, Advocate,
for the respondent.

JAISHREE THAKUR, J. (ORAL)

1. This is a petition that has been filed under Section 11(6) of Arbitration and Conciliation Act, 1996 for appointment of an independent person as a sole Arbitrator to adjudicate the dispute between the petitioner and the respondent.

2. Counsel for the petitioner herein would contend that a license agreement had been entered into between the parties for installation of mobile charging Kiosks. However, a dispute arose between the parties. The licence agreement contained Clause 41

which pertains to arbitration in which it had been specified that any dispute and differences of opinion arising out of the agreement would be referred to the sole Arbitration of a Gazetted Railway Officer appointed by the General Manager/NR, the person would be independent and had an opportunity to deal with the matter pertaining to the contract.

3. It is submitted by counsel for the petitioner that in view of the amendment incorporated in Sub-section 5 of Section 12 of the 1996 Act which came into effect from 23.10.2015 an employee of the respondent could not be appointed as an Arbitrator.

4. Per contra, learned counsel appearing on behalf of the respondent does not dispute the factum of an aArbitration agreement. He is also not able to dispute the fact that there is an amendment to Sub-section 5 of Section 12 of the 1996 Act which clearly stipulates that an employee of the respondent could not be appointed as an Arbitrator.

4. I have heard learned counsel for the parties and in view of the fact that a dispute has arisen out of the contract and the amendment as referred above, this Court deems it appropriate to appoint an independent Arbitrator. Accordingly, the petition is allowed. Sh. H.C. Modi, retired District and Sessions Judge, resident of H. No. 3459, Sector-27-D, Chandigarh is hereby appointed as independent sole Arbitrator to settle the dispute/ differences between

the parties. The fee shall be payable as per the Chandigarh Arbitration Centre (CAC) Rules, 2018.

15.11.2019
Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned Yes.

Whether reportable No.