

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

CWP No.18832 of 2010 (O&M)

Date of Decision: 05.03.2019

Davinder Singh

... Petitioner

Versus

Bhakra Beas Management Board and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Vivek K. Thakur, Advocate,
for the petitioner.

Mr. Arun Nehra and
Mr. Sant Kashyap, Advocates,
for respondents No.1 to 3.

Mr. Vikas Mehsempuri, Advocate,
for respondent No.5.

Ms. Ambika Sood, DAG, Punjab,
for respondent No.4.

ARUN MONGA, J.(ORAL)

Present petition has been filed, *inter alia*, for issuance of a writ in the nature of certiorari to quash notice dated 29.09.2010 (Annexure P-15), issued by respondent No.3-Deputy Chief Engineer, Bhakra Dam Circle, BBMB, Nangal Township acting in his capacity as a sole Arbitrator to arbitrate on the disputes between the petitioner and the BBMB.

2. Learned counsel for the petitioner contends that pursuant to Clause 16 of the lease deed dated 11.11.1959 (Annexure P-2), any disputes that may arise between the lessor

and the lessee are to be referred to the Director, Inspection and Control, Bhakra Dam, Nangal. He contends that in violation of the said Clause, respondent No.3/Deputy Chief Engineer has been appointed as Arbitrator instead of Director, Inspection and Control. He further contends that the Deputy Chief Engineer is the one who is proceeding against the petitioner in his administrative capacity qua the eviction proceedings which is the dispute to be arbitrated upon. He contends that said respondent No.3, therefore, cannot act as an Arbitrator as he may not be a judge to his own cause.

3. Be that as it may, contentions of the learned counsel for the petitioner can be left open to be decided in appropriate proceedings under the Arbitration and Conciliation Act, 1996. Relevant part of Section 12 (1) (b) of the said Act, for ready reference, is extracted hereinbelow:-

(b)“which are likely to affect his ability to devote sufficient time to the arbitration and in particular his ability to complete the entire arbitration within a period of twelve months.”

4. A perusal of Section 12 (1) (b) of the Fifth Schedule *ibid*, shows that the petitioner/lesser is at liberty to seek recusal of the arbitrator on the grounds mentioned therein.

5. In view of the remedy available to the petitioner under Section 12 of the Act, there is no scope for interference under Article 226 of the Constitution of India in the present proceedings.

6. Accordingly, the present writ petition is disposed of with liberty to the petitioner to seek any other appropriate

remedy, as may be advised, in accordance with law.

05.03.2019

(ARUN MONGA)
JUDGE

vandana

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