

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ARB-164-2020 (O&M)

Date of Decision: 04.12.2020

M/s Shivalik Solid Waste Management Ltd.

... Petitioner

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. HPS Rahi, Advocate for the petitioner

Mr. Suveer Sheokhand, Addl. AG Punjab

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on account of lockdown due to outbreak of COVID-19 pandemic.

The petitioner M/s Shivalik Solid Waste Management Ltd. has filed the present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (as amended) read with the Scheme of Punjab and Haryana High Court, 2003 for appointment/constitute an independent Arbitrator to adjudicate the dispute between the parties.

Record shows that on 01.10.2020, notice of motion was issued for 23.11.2020. On 23.11.2020 further time was granted to the respondents to seek instructions as to if without treating it as a precedent leaving the interpretation of clause 15 open, the authorities are agreeable to appoint an Arbitrator or consent to the appointment of Retd. Hon'ble Judge of the High Court as an Arbitrator under the orders of this Court.

Today on the resumed hearings of the case, learned counsel for the petitioner after seeking instructions from the petitioner, has submitted that vide letter dated 07.12.2019 (P18) petitioner had requested the respondents to

appoint Er. SS Juneja, retired Engineer-in-Chief, HP PWD as Sole Arbitrator.

His consent was also enclosed with the letter.

However, learned State counsel submits that on 14.01.2020 (P19) it was conveyed by the respondents to the petitioner that clause 15 pertains to the case in which there is change in the project proponent. It was conveyed that *“the department is not intended to participate in the proceedings and the pending payments shall be paid as per the office record”*.

A short reply was filed by the respondents on 02.12.2020 and para 6 thereof, reads as under:-

“That in view of the above facts and in compliance of this Hon’ble Court orders dated 23.11.2020, if need be, the responding State shall appoint Arbitrator.”

In view of the above, the present petition is disposed of with a direction to the competent authority to take a final decision on the same as expeditiously as possible and preferably within one month from the date of receipt of certified copy of this order.

04.12.2020

vishal shonkar

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No

(Girish Agnihotri)
Judge