

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

Arb.-145-2020

Date of Decision: 21.12.2020

M/s. Aparna Construction Company

. Petitioner

Vs.

State of Haryana and others

. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: - Mr. J. S. Rana, Advocate, for the petitioner.

Ms. Mamta Talwar, DAG, Haryana.

(Presence has been marked through video conferencing)

ARUN MONGA, J.

The petition herein is under Section 11 (6) of the Arbitration and Conciliation Act, 1996, seeking appointment of an Arbitrator.

The parties entered into a contract, Clause 25 thereof contains the Arbitration Agreement. The Arbitration Agreement is admitted. However, the same provides that in case of any dispute, Superintendent Engineer/Chief Engineer would be designated as sole Arbitrator. After the amendment in Arbitration and Conciliation Act, 1996 in the year 2015, I am of the view that the said officers are ineligible to act as Arbitrator and therefore, an independent Arbitrator ought to be appointed to adjudicate the disputes between the parties.

In the premise, Mr. Justice Rajiv Narain Raina, Former Judge of this Court, is appointed as sole Arbitrator.

There are allegations and counter allegations raised by the parties before this Court in their respective pleadings, the same as well as all other

issues between the parties, including as to whether the claims of the petitioner are maintainable and/or whether the claims are barred by limitation, are kept open to be adjudicated by learned Arbitrator. It is also left open to the learned Arbitrator to determine his fees in accordance with the applicable prescribed fee schedule. Both the parties shall share the costs of arbitration proceedings equally, including the fee of learned Arbitrator. Registry is directed to dispatch a soft of this order through email to Justice Rajiv Narain Raina and a hard copy thereof at the following address :

Mr. Justice Rajiv Narain Raina (Retd.)
E/8-3 (GF), DLF-The Valley,
Sector-3
Panchkula – 133 301

The learned Arbitrator may decide the venue of the Arbitral Tribunal as per his discretion and convenience and issue notice to the parties to appear before him accordingly. In case, he wishes to hold the proceedings at Chandigarh Arbitration Centre, Sector 17, Chandigarh, appropriate arrangement shall be made by the officials deputed there, of course, by observing all the Covid precautions. Given the current pandemic scenario, learned Arbitrator is also at liberty to conduct the virtual proceedings through video conferencing.

Disposed of accordingly.

(ARUN MONGA)
JUDGE

21.12.2020

Vivek

Whether speaking /reasoned : *Yes/No*
Whether Reportable : *Yes/No*