

115 -a IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-76-2021 (O&M)

Date of decision : February 15, 2021

HARYANA SPACE APPLICATION CENTRE (HARSAC) AND ANOTHER
.....Petitioners

Versus

M/S ROLTA INDIA LTD AND ANOTHERRespondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Kuldeep Tiwari, Addl. AG, Haryana for the petitioners.

Mr. Ashish Aggarwal, Senior Advocate with
Mr. Kartik Gupta, Advocate for respondent No. 1.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Prayer in the present petition is for setting aside order dated 10.11.2020 passed by the learned Additional District Judge, Chandigarh whereby application under Section 29A of the Arbitration and Conciliation Act, 1996 filed by respondent No. 1 for extension of time for passing the award by the Arbitral Tribunal has been allowed.

Following facts are not disputed by the parties.

Petitioner No. 1 - Haryana Space Application Centre (HARSAC)

Department of the Science and Technology, Government of Haryana is a nodal agency for Geographic Information System (GIS) Application and Remote Sensing for the Government of Haryana. Request for proposal was invited by HARSAC in September, 2010 from qualified vendors for modernisation of Land Records (including digitisation of cadastral Maps, Integration with records and management of old revenue documents). Pursuant thereto, contract was afforded to

three vendors including respondent No.1. Service level agreements dated 29.03.2011 were executed between petitioner No. 1 and three vendors i.e. respondent No. 1 – Ms. Rotla India Limited, M/s Cyient Limited and M/s Pan India Consultants Private Limited. Arbitration clause 6.11 of the Service Level Agreement dated 29.03.2011 provides for resolution of dispute as under:-

“6.11 Resolution of Dispute

HARSAC, Haryana and the Vendor shall make every effort to resolve amicably, by direct informal negotiation, any disagreement or dispute arising between them under or in connection with the contract. If after, thirty days from the commencement of such informal negotiations, HARSAC, Haryana and the Vendor are unable to resolve amicably a contract dispute; either party may require that the dispute be referred for resolution by formal arbitration. All question, disputes or differences arising under and out of or in connection with the contract, shall be referred to two Arbitrators one arbitrator to be nominated by HARSAC, Haryana and the other two to be nominated by the Vendor. In the case of the said Arbitrators not agreeing, then the matter will be referred to an umpire to be appointed by the Arbitrators in writing before proceeding with the reference. The award of the arbitrators, and in the event of their not agreeing, the award of the Umpire appointed by them shall be final and binding on the parties. The arbitration and reconciliation act 1996 shall apply to the arbitration proceedings and the venue & jurisdiction of the arbitration shall be in the State of Haryana.”

Dispute arose amongst the petitioners and all the three vendors in question. In one of the cases involving the vendor - M/s Pan India Consultants Private Limited, an order similar to the impugned order, granting extension of time for passing of award by the Arbitral Tribunal was challenged by the petitioners in CR No. 3 of 2020, which was decided on 24.08.2020 (Annexure P5). Time was

extended by another four months i.e. three months for conclusion of arguments and one month for the Tribunal to announce the award. Order dated 24.08.2020 was challenged by the present petitioners before the Hon'ble Supreme Court and the matter admittedly stands decided vide order dated 20.01.2021. As per consensus arrived at between the parties before the Hon'ble Supreme Court, a sole Arbitrator has been appointed in the said matter of M/s Pan India Consultants to complete the arbitral proceedings.

Relevant part of order dated 20.01.2021 passed in Civil Appeal No. 131 of 2021 titled 'Haryana Space Application Centre (HARSAC) and another versus M/s Pan India Consultants Pvt. Ltd.' is reproduced as hereunder:-

“ The Counsel for both parties during the course of hearing have consented to the substitution of the existing tribunal, by the appointment of a Sole Arbitrator to complete the arbitral proceedings.

In exercise of our power under Section 29A(6) of the Arbitration and Conciliation Act, 1996 (as amended), we hereby appoint Justice Kurian Joseph (Retd.), former judge of this Court, as the substitute arbitrator, who will conduct the proceedings in continuation from the stage arrived at, and pass the Award within a period of 6 months from the date of receipt of this Order. The Arbitrator may direct the parties to address final arguments and take him through the entire record of the case.

The appointment of the Sole Arbitrator is subject to the declarations being made under Section 12 of the Arbitration and Conciliation Act, 1996 with respect to independence and impartiality, and the ability to devote sufficient time to complete the arbitration within the period of 6 months.

The arbitrator will charge fees in accordance with the Fourth Schedule of the Arbitration and Conciliation Act, 1996. We direct both parties to equally share the fees payable to the Sole Arbitrator. The proceedings will be conducted either virtually, or at the seat of arbitration in the State of Haryana.”

During course of hearing in this petition, consensus has been arrived at between the petitioners and respondent No. 1 that Justice Kurian Joseph (Retd.) former judge of the Hon'ble Supreme Court be appointed as the substitute sole Arbitrator in the present matter as well in the same terms as in order dated 20.01.2021 in Civil Appeal No. 131 of 2021.

Accordingly, Justice Kurian Joseph (Retd.) former judge of the Hon'ble Supreme Court, is appointed as substitute sole Arbitrator in the present matter as well in the same terms as in order dated 20.01.2021 passed by the Hon'ble Supreme Court in Civil Appeal No. 131 of 2021.

February 15, 2021
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No