

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

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ARB-373-2021

Decided on : 21.09.2021

M/s Aggarwal Traders

... Petitioner

Versus

The Union of India & another

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.Chetan Goel, Advocate, for the petitioner.

Mr.A.K.Bansal, Advocate, for the respondents.

(The proceedings are being conducted through video conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

Petitioner seeks appointment of Arbitrator to adjudicate the dispute which has arisen between the parties in terms of the Arbitration & Conciliation Act, 1996.

It is not disputed that on an earlier occasion, one Shri Vinay Kulkarni was appointed as an Arbitrator to adjudicate upon the dispute pertaining to the existing security fencing which had been done at the Chandimandir Military Station. The said appointment was in terms of the agreement inter se the parties which provided for resolution of disputes through arbitration. The said Arbitrator could not adjudicate upon the dispute within the time-frame provided under the Act and he mandated his termination. Thereafter, Shri Rajiv Goyal, Superintending Engineer, Director (P&L), Military Engineering Services, HQ CE Chandigarh Zone, 'N' Area, Airport Road, Chandigarh had been appointed as the sole Arbitrator in ARB-153-2019 inter se the parties on 03.03.2020 (Annexure P-7) by this Court and the venue of the arbitration was fixed at Chandimandir.

The grouse of the petitioner is that arbitration could not be concluded within the fixed time-frame and reference was made to the order sheet dated 04.01.2021 wherein the respondents did not give their consent for extension of time for finishing the arbitral proceedings. It is, in such circumstances, appointment of an independent Arbitrator is sought for, by submitting that respondents are resorting to delaying tactics.

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In the reply filed, the respondents have stated that they have no objection for appointment of new Arbitrator from the panel of Arbitrators in accordance with the conditions of the contract.

In the opinion of this Court, keeping in view the background of the case, it would be more appropriate if an independent Arbitrator is appointed rather than opt for the names which have been suggested in the written statement by the respondents.

Accordingly, Justice Arvind Kumar (Retd.) is appointed as an Arbitrator and he shall file the requisite declaration under Section 12 of the Act read with the fifth and sixth schedule in order to disclose his independence and impartiality to settle the dispute between the parties. The Arbitrator is also requested to complete the proceedings within the time specified under Section 29A of the Act. The fees of the Arbitrator shall be paid in accordance with the provisions of the Act and the Rules.

Copy of the order be forwarded to Justice Arvind Kumar (Retd.) at Penthouse No.1303-1304, Tower-B, Green Lotus Avenue, Zirakpur-140603 (Mohali), Telephone No.98888-07564 and to counsel for the parties also. After seeking the consent of the Arbitrator, the parties are directed to appear before the Arbitrator on 11.10.2021 at 10.00 a.m.

Present petition is disposed of, accordingly.

September 21, 2021
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No