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

ARB No. 66 of 2022 (O&M)
Date of Decision: 13.12.2022

M/s R.V. Associates

-Petitioner

Versus

The State of Punjab and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. R.K. Girdhar, Advocate,
for the petitioner.

Mr. Sanjeev Soni, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J. (Oral)

1. The petitioner has preferred this petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of an independent arbitrator in order to adjudicate the dispute between the parties.

2. On 04.03.2021, the respondent- department floated a tender. The petitioner submitted its bid for the work of construction (extension) of KGBV Hostel (for girls) in Govt. Senior Secondary School at village Bhogiwal, District Sangrur. The petitioner being the lowest tenderer was successful in getting the work assignment and allotment letter was issued on 12.04.2021.

3. The petitioner started the work on 01.05.2021. On 23.06.2021, an inspection was done by the Executive Engineer, Fatehgarh Sahib and on the basis of site inspection, the Executive Engineer issued a letter dated 06.07.2021 to the petitioner on the allegations that the petitioner was using a secondary source (scrap) in place of primary independent source of some renowned company like Sail, Tata and Rinal. The sample was taken which ultimately found in order. The allegation raised by the then Executing Engineer was found to be false and it was found that independent steel used by the petitioner was as per the specifications.

4. Grievance of the petitioner is that the process was unnecessarily stopped by the Executive Engineer for about six months for which the petitioner had incurred damages on account of prolongation of contract and losses suffered by the petitioner were on account of stranded machinery, labour, technical staff, shuttering, mixture machinery etc. due to illegal stoppage of work by the then Executive Engineer. Unnecessary stoppage had also resulted in wastage of sand, bajri, brick etc. besides unnecessary mental harassment to the petitioner.

5. The petitioner has tentatively valued its claim to the tune of Rs.25,60,000/- in respect of aforesaid components thereby dividing its claim which is shown by means of a

tabulated information in para no.12 of the petition which is reproduced hereasunder:-

Sr.No.	Head wise details	Compensation/Damages
1.	10% damages on account of prolongation of contract, due to fault of Sh. Jasveer Singh the then Executive Engineer	Rs.14,60,000/-
2.	Losses suffered on account of stranded machinery, labour, technical staff, shuttering, mixture machinery etc. due to illegal stoppage of work by the then Executive Engineer	Rs.5,00,000/-
3.	Shifting/wastage of 400 bags of cement	Rs.50,000/-
4.	Wastage of sand, bajri, brick etc	Rs.50,000/-
5.	Mental harassment	Rs.5,00,000/-
	Total	Rs.25,60,000/-

6. The factual position of the case is not in dispute, however, learned State counsel opposed the prayer for appointment of Arbitrator on the ground that the delay was not attributable to the respondent, rather liquidated damages were imposed upon the petitioner on account of causing delay in the project.

7. In view of facts and circumstances of the case, I find that the issue is arbitral in nature for which an independent arbitrator needs to be appointed for adjudication of dispute for which the petitioner has already invoked the arbitration clause no.25 of the contract agreement vide notice dated 29.11.2021.

8. For the reasons recorded hereinabove, I deem it appropriate to appoint Sh. Gurtej Singh, Addl. Excise and Taxation Commissioner, #3382, Sector 71, Mohali, 9698700003 as the sole Arbitrator, to resolve the dispute/difference between

the parties. The appointment of the Arbitrator shall be subject to the declaration to be made by him as required under Section 12 of Arbitration and Conciliation Act, 1996 in respect of his independence and impartiality to settle the dispute between the parties.

9. The Arbitrator would complete the proceedings within the specified time in terms of Section 29-A of the said Act. The Arbitrator shall be paid fee in accordance with the IVth Schedule of the Act as amended from time to time. The fee shall be borne by the petitioner and respondent(s) in equal proportion.

10. The venue will be as per the convenience of the Arbitrator.

11. A copy of this order be dispatched to the Arbitrator at the following address:-

Sh. Gurtej Singh
Addl. Excise and Taxation Commissioner
#3382, Sector 71, Mohali
9698700003

12. Petition stands disposed of accordingly.

13.12.2022

Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No