

256

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

**ARB No.137 of 2022 (O&M)
Date of Decision: 30.11.2022**

JAI PARKASH GARG CONTRACTOR

.....Petitioner

Vs

**HARYANA PUBLIC HEALTH ENGINEERING DEPARTMENT
AND OTHERS**

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Jagdeep Singh Rana, Advocate
for the petitioner.

Mr. Zorawar Singh Chauhan, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

[1]. The Petitioner has filed the present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter to be referred as 'the Act') for appointment of an independent Arbitrator to resolve the dispute between the parties.

[2]. Learned counsel for the petitioner submits that in view of understanding between the parties, the work of Providing Canal Based Water Works and including Functional Household Tap Connection (FHTC) to Household in village Khan

Mohammad group of 3 nos. villages District Fatehabad (under Jal Jeevan Mission) construction of 350 mm dia RCC Pipe inlet channel, Construction of 2 Nos S/S Tank, 2 No Suction/Scour Wells, 2 No High Level Tanks, 4 Nos Filter beds, 2 No Clear Water Tanks, 1 No. Pump chamber along with store room, Boundary wall Iron Gate, Toiler block, pipe line at head works, Distribution system, Supply & erection of Pumping machinery for raw water & clear water and O & M for six years including one year of Defect liability period after months of Trial run and all other works contingent thereto was allocated to the petitioner.

[3]. The allocation of the aforesaid work is not in dispute. However, the respondents have taken a ground that no consent agreement was executed between the parties. Allocation of the work has been admitted, but the respondents have relied upon memo letter dated 30.07.2021 to contend that the work was to be reckoned from the date of commencement i.e. 16.08.2021 but the petitioner never deposited 3% balance security within 10 days from the date of issue of the letter in the office of Sub-Divisional and he never contacted the Sub-Divisional Engineer, Public Health Sub-Division No.2, Fatehabad for taking Nishan to start the work assignment.

[4]. On the other hand, learned counsel for the petitioner has refuted the aforesaid assertion on the ground that the

petitioner had already deposited an amount of Rs.5,07,680/- towards earnest money and an amount of Rs.5,02,688/- with interest and costs towards preparation of documents. In this manner, the petitioner had already spent more than Rs.10 lakhs and have not earned profits to the tune of Rs.25,13,442/-. In this way the petitioner has tentatively valued his claim to the tune of Rs.35 lakhs subject to final adjudication by the Arbitrator.

[5]. The allegations as regards non-signing of agreement cannot be accepted, particularly in the light of allocation of work. The arbitration clause forming subject matter of notice inviting tender has already been invoked by the petitioner.

[6]. In my considered opinion, there exists a *bona fide* dispute for which an independent Arbitrator can be appointed. All the pleadings available to the parties shall be dealt with by the Arbitrator on the basis of material to be adduced before the Arbitrator during course of arbitration proceedings.

[7]. Keeping in view the facts and circumstances of the case, I hereby appoint **Sh. Amarjit Singh Katari, Addl. District & Sessions Judge (Retd.) #145, Phase 3B1, Sector 60, Mohali, Mob. No.9814112041** 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.

[8]. 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 both the parties equally.

[9]. Venue of the Arbitration shall be the place to be disclosed by the Arbitrator according to his convenience.

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

Sh. Amarjit Singh Katari, Addl. District & Sessions Judge (Retd.)
#145, Phase 3B1, Sector 60,
Mohali, Mob. No.9814112041

[11]. Petition stands disposed of accordingly.

November 30, 2022

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No