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

**ARB No.285 of 2021 (O&M)
Date of Decision: 27.10.2022**

M/S A.A. BALSAR ASSOCIATES

.....Petitioner

Vs

UNION OF INDIA AND ORS.

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Anand Vardhan Khanna, Advocate
for the petitioner.

Mr. Arun Gosain, Senior Panel counsel
for the respondents/Union of India.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has preferred the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter to be referred as the 'Act') for appointment of an independent Arbitrator to adjudicate the dispute/difference between the parties arising out of execution of work of contract No.CA NO, CWE/M-10/2012-13 i.e. special repair/replacement of steel furniture against condemned/surveyed off items under GE Mamun.

[2]. Petitioner-firm submitted its bid which was accepted by

the competent authority on 02.08.2012 and the petitioner-firm was allotted the work on 02.08.2012. After completion of work, the petitioner-firm submitted its final bill to respondent No.5. Partial payment was received by the petitioner under protest which was not corresponding to the work done by the petitioner. A legal notice was served upon respondents No.4, 5 and 6 on 30.04.2016. A request was made for appointment of Arbitrator to adjudicate the dispute.

[3]. Perusal of the record would show that first Arbitrator i.e. Lt. Col. Devesh Dua was appointed and he ultimately resigned, which is apparent from letter dated 06.09.2014. Thereafter, Mr. Sheo Prasad Ram, SE was appointed as sole Arbitrator to adjudicate the dispute pertaining to the contract assignment. The said Arbitrator also resigned due to his transfer on 09.02.2019 which is apparent from Annexure P-6. Thereafter 3rd Arbitrator i.e. Col. Ajay Kumar Sharma was appointed as 3rd Arbitrator on 28.03.2019. He also resigned from the assignment due to expiry of time limit in the month of October 2020. Thereafter petitioner issued a notice dated 04.03.2021, thereby invoking arbitration clause. A request was made to appoint sole Arbitrator for adjudication of the dispute outside the MES and under the Arbitration and Conciliation Act, 1996. The said notice was not replied by the respondents and thereafter the present

petition came to be file on 06.04.2021. Notice of motion was issued on 09.04.2021. No reply has been filed till date.

[4]. On 26.07.2022, learned counsel for the respondents sought time for filing reply thereby undertaking that reply shall be filed within two weeks from that day. Even on 10.10.2022, some more time was sought by learned counsel for the respondents and last opportunity was granted to learned counsel for the respondents to file reply.

[5]. Today, learned counsel for the respondents has shown his inability to file reply for want of necessary instructions from the respondents. Petitioner has set up tentative value of its claim to the tune of Rs.8 lakhs with interest till date, subject to final adjudication by the Arbitrator.

[6]. In view of facts and circumstances, particularly in the light of repeated appointments of Arbitrators from the MES and failure on their part to adjudicate the dispute, I hereby appoint Ms. Kanica Sachdeva, Advocate R/o # 7216, New Sunny Enclave, Sector 125, Kharar, Mobile No.7589212222 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.

[7]. 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.

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

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

Ms. Kanica Sachdeva, Advocate
R/o # 7216, New Sunny Enclave, Sector 125, Kharar,
Mobile No.7589212222

[10]. Petition stands disposed of accordingly.

October 27, 2022

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No