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

**ARB No. 300 of 2021 (O&M)
Date of Decision: 19.12.2022**

M/S AKSS BUILDERS

.....Petitioner

Versus

THE STATE OF PUNJAB AND OTHERS

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

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

Mr.R.S.Pandher, Sr.DAG, Punjab.

RAJ MOHAN SINGH, J. (Oral)

The petitioner has preferred this petition under Section 11 read with Section 12 of the Arbitration and Conciliation Act, 1996 for appointment of an independent Arbitrator (Technical Expert) to decide the dispute between the parties.

The petitioner has also assailed the order dated 08.02.2021, vide which request for appointment of Arbitrator has been declined by the Executive Engineer, Water Supply and Sanitation Division, Fazilka.

The petitioner has asserted that the petitioner has executed various work assignments from time to time without any complaint whatsoever. In the month of March, 2014, the work of new boosting station at village Sajrana District Fazilka and providing water supply scheme in village Islamwala District Fazilka including Part B i.e. Operation and Maintenance of these schemes were allotted to the petitioner vide allotment letters dated 01.03.2014 and

05.03.20214. Specific details of the work were also conveyed to the petitioner. According to the petitioner the petitioner has executed the work assignment and has given representations to the respondents No.4 and 5 for making payment of Rs.12,85,000/- qua the maintenance work executed by the petitioner w.e.f. 2015 to 2020.

The petitioner has tabulated its entitlement with reference to details of work and amount payable to the petitioner. The details are given as under:-

Sr. No.	Details of work	Amount payable
1.	Providing Water Supply Scheme at Village Islamwala (1 No.Village) Bifurcated from existing W/S Scheme Kamalwala etc. (14 Nos. villages), Block Fazilka, District Fazilka (Under NRWSP-SWAP) Memo No. 2402 dated 01.03.2014	Final Bill for period w.e.f. 01.04.2015 to 31.03.2016 Rs.1,40,000/- w.e.f. 01.04.2016 to 31.03.2017 Rs.1,40,000/- w.e.f. 01.04.2017 to 31.03.2018 Rs.1,40,000/- w.e.f. 01.04.2018 to 31.03.2019 Rs.1,40,000/- w.e.f. 01.04.2019 to 31.03.2020 Rs.1,40,000/- Total Rs.7,00,000/-
2.	New Boosting Station at village Sajrana including 3 Nos. Dhanies Machhi Ram Lahoria, Janta Nagar and Dhani Kolu Ram Part of village Sajrana, under existing W/S Scheme Kamal Wala etc. (124 Nos. village) Block Fazilka and District Fazilka (under NRWSP-SWAP) Memo No.2427 dated 05.03.2014	Final bill for period w.e.f. 01.03.2015 to 28.02.2016 Rs.1,45,000/- w.e.f. 01.03.2016 to 28.02.2017 Rs.1,10,000/- w.e.f. 01.03.2017 to 28.02.2018 Rs.1,10,000/- w.e.f. 01.03.2018 to 28.02.2019 Rs.1,10,000/- w.e.f. 01.03.2019 to 28.02.2020 Rs.1,10,000/- Total 5,85,000/-
	Grand Total	Rs.12,85,000/-

As per written statement, the respondents have denied any due amount to the petitioner. The respondents have referred to a report of SDE, Sub Division No.2, Fazilka received on 17.08.2020, vide which the contractor has not done the repair to machinery nor collected revenue from the beneficiaries, therefore, the claim of the petitioner has been rejected vide order dated 24.11.2020.

Perusal of the order dated 24.11.2020 would show that the respondents have mentioned that in the event that even after raising payments claims with the competent authority, the same are disputed thereto, then the petitioner can resort to settlement of such dispute by means of arbitration as per Clause 38 of the Agreement (B). However, the respondents have alleged that the respondent department has not received any such request/ reference from the petitioner to settle the payment dispute by means of arbitration under Clause 38 of the binding agreement till the decision dated 24.11.2020. After the aforesaid decision, the petitioner has invoked the arbitration clause vide notice of invocation dated 12.01.2021.

In view of the aforesaid factual position, it is apparent that there exists a bonafide dispute, therefore, I appoint Sh. N.S. Brar, Former PCS, House No.110, IAS/PCS Society, New Chandigarh, Mullanpur (Mobile: 9815388534) 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.

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.

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

The respondent shall also be entitled to raise any counter claim in respect of the stand taken in reply to the notice of invocation.

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

Sh. N.S. Brar, Former PCS, House No.110,
IAS/PCS Society, New Chandigarh, Mullanpur
(Mobile: 9815388534)

Petition stands disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

19.12.2022

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1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No
- 3.