

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-633-CII of 2022 in/and
ARB No. 571 of 2021.
Date of Decision:28.01.2022.

M/s M.S.Brothers, Engineers and Contractors

.....Petitioner

Versus

Chief Engineer, Central Circle and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Dheeraj Mahajan, Advocate
for the applicant-petitioner.

Ms. Sunint Kaur, AAG., Punjab.

LISA GILL, J(Oral).

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

CM-633-CII of 2022.

Prayer in this application is for preponement of hearing of this petition.

Notice of the application.

Ms. Sunint Kaur, AAG., Punjab, accepts notice on behalf of the respondents and does not raise any objection.

Keeping in view the above and with the consent of learned counsel for the parties, hearing of this petition is preponed from 08.02.2022, and is taken up for hearing today itself.

Application is accordingly disposed of.

ARB No. 571 of 2021.

Prayer in this petition under Section 11 (6) of the Arbitration

and Conciliation Act, 1996 (for short – ‘the Act’), is for appointment of sole independent Arbitrator for resolution of disputes and differences arising between the parties out of Agreement/Allotment Letter No. 2840 dated 12.03.2020, Annexure P-1.

Subsequent to execution of agreement dated 12.03.2020, dispute arose between the parties. Arbitration Clause 25 of the agreement/allotment agreement provides for resolution of the dispute through arbitration.

Notice dated 08.09.2021, Annexure P-6, was issued by the petitioner invoking the arbitration clause. It is stated that the petitioner was thereafter called by respondent no.3 and directed to submit list of approved arbitrators and the petitioner accordingly submitted a list of four proposed arbitrators on 16.09.2021, Annexure P-7. Thereafter, respondent no.3 is stated to have forwarded letter to respondent no.2 on 23.09.2021 recommending one Sh. Lachman Dass, Chief Engineer (Retired), Local Bodies, Punjab as arbitrator in the case. Subsequently, respondent no.2, forwarded the communication to respondent no.1 on 06.10.2021 for approving the name of the arbitrator out of the list of three arbitrators mentioned in communication dated 06.10.2021. It is stated that as the matter was kept pending and no decision was taken thereon, the present petition has been filed.

Copy of short affidavit dated 28.01.2022 of Mr. Rajiv Kumar, Executive Engineer, Construction Division, PWD (B&R), Pathankot, filed on behalf of respondents no.1 to 3, has been circulated on the whatsapp group created for the purpose of video conferencing, is taken on record subject to just exceptions. Print out of the same be taken and attached with the file. Same be filed with the Registry as well. It is mentioned in paragraph

no.3 of affidavit dated 28.01.2022 that there is no objection to the appointment of any of the three persons named therein as an arbitrator in the matter.

At this stage, learned counsel for the parties agree that Sh. S.K.Grover, Superintending Engineer (Retired) PWD, B&R, Punjab, Jalandhar, who is one of the three persons as mentioned in paragraph no.3 of affidavit dated 28.01.2022, be appointed as the sole arbitrator in this matter.

Keeping in view the facts and circumstances as above, this petition is allowed and Sh. S.K.Grover, Superintending Engineer (Retired) PWD, B&R, Punjab, Jalandhar, is appointed as the Sole Arbitrator to resolve the dispute/differences between the parties. Appointment is subject to declaration to be made by the Arbitrator under Section 12 of the Act with regard to his independence and impartiality to settle the disputes between the parties. The Arbitrator is to complete the proceedings within the time limit specified under Section 29-A of the Act. The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended, to be borne equally by the parties.

A copy of this order be dispatched to Sh. S.K.Grover, Superintending Engineer (Retired), PWD, B&R, Punjab, Jalandhar.

28.01.2022
s.khan

[LISA GILL]
Judge

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