

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Arbitration Case No. 57 of 2022 (O&M)

Date of decision: 19th January, 2023

M/s The Nirman Cooperative Labour and Construction Society Ltd.

Petitioner

Versus

Executive Engineer (Civil), Punjab Mandi Board, Tarn Taran & another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Dheeraj Mahajan, Advocate for the petitioner.
Mr. Amit Kumar, Advocate for the respondents.

AVNEESH JHINGAN, J (Oral):

This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') for appointment of an arbitrator for adjudication of disputes between the parties.

The petitioner was allotted tender for construction of 'DB Paving on principal yard Naushera Pannuan action platform and parking and sub- yard Dhotion 2018-19 M. C. Naushehra Pannuan, Tarn Taran MB M.C. (Funds) allotted vide allotment letter No. 1107 dated 22.2.2019 (Agreement No. 52 of 2018-19). Clause 25 of the general terms and conditions provides for pre-arbitral settlement mechanism and for dispute resolution through arbitration.

The petitioner raised a claim vide notice dated 19.10.2021. On failure of the Engineer to settle the issue within 60 days, notice under Section 21 of the Act was issued on 27.11.2021. The needful having not been done, the present petition was filed.

Learned counsel for the respondents submits that the petitioner had only completed 60% of the work and there is no amount due as on date.

From the contention of learned counsel for the respondents, it

is evident that *prima facie* there is dispute between the parties. Clause of the arbitration is also not disputed.

Accordingly, the present petition is accordingly disposed of by appointing Ms. Sunita Kumari Sharma, D&SJ (Retd.), # 103, Krishna Square-I, near Celebration Mall, Amritsar as the sole arbitrator subject to declaration to be made by him under Section 12 of the Act with regard to independence and impartiality to settle the dispute between the parties.

Needless to say that the respondent would be at liberty to raise the pleas as raised for opposing the petition before the arbitrator at an appropriate stage.

The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended. The fee of the arbitrator will be equally borne by both the parties.

The arbitrator is requested to complete the proceedings as per time limit specified under Section 29A of the Act.

It is clarified that the reference shall be subject to the petitioner's complying with all the requirements of the agreement including the condition of pre-deposit.

Since the main case has been disposed of, pending applications, if any, stand disposed of.

Copy of the order be sent to the appointed arbitrator.

[AVNEESH JHINGAN]
JUDGE

19th January, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |