

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

Arbitration Case No. 86 of 2022

Date of decision: 23rd February, 2023

Ram Avtar Gupta

Petitioner

Versus

Haryana State Warehousing Corporation

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Nikhil Kumar Vashisht, Advocate for the petitioner.
Mr. Prateek Mahajan, Advocate for the respondent.

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 brief facts are that the petitioner was allotted tender for construction work. Clause 25(A) of the general terms and conditions of provided for pre-arbitration mechanism and dispute resolution through arbitration.

There was a dispute between the parties.

The petitioner served notice dated 29.6.2016 raising the claim before the Executive Engineer. Thereafter, notice under Section 21 of the Act was issued on 31.8.2016. Request for appointment of the arbitrator was rejected on 8.9.2016. Correspondence between the parties continued till end of 2017. It would not be out of place to mention that the respondent had asked for details of the claims and the payments due.

Learned counsel for the petitioner relies upon clause 25(A) and seeks direction for appointment of arbitrator.

Learned counsel for the respondent submits that it is a time

barred claim. The request for appointment of the arbitrator was rejected on 8.9.2016. After correspondence between the parties, it was finally rejected on 4.9.2018.

Without commenting on the merits of the case, considering that there was consistent correspondence between the parties and the respondent was seeking details of the dispute and even if the rejection of the prayer for appointment of the arbitrator is taken in September, 2018, it cannot be lost sight of that there were un-precedented COVID-19 situation in the country.

Accordingly, the present petition is disposed of by appointing Mr. R. C. Bansal, District & Sessions Judge (Retd.), H. No. 917, Sector 9, Panchkula as 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 issue of limitation before the arbitrator.

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

23rd February, 2023
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1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No