

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Arbitration Case No. 104 of 2021
Date of decision: 19th January, 2023

Anil Kumar

Petitioner

Versus

State of Punjab and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. P. S. Rana, Advocate for the petitioner.
Mr. Rajesh Mehta, Addl. AG, Punjab.

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 a tender by Executive Engineer, Construction Division No. 2, PWD (B&R) Branch, Hoshiarpur. Clause 25-A of the general terms and conditions provides for pre-arbitral settlement for dispute resolution through arbitration.

The petitioner raised a claim vide letter dated 7.8.2013. As there was no settlement at pre-arbitral stage, a request for appointing the arbitrator was made vide notice dated 18.7.2020. As needful was not done, the present petition was filed.

Learned counsel for the respondents is not disputing that there is an arbitration clause. He, however submits that the dispute is based upon a clerical error that occurred in the clauses of the tender against item No. 21 where “square feet” was mentioned instead of “square meter”. The contention is that the tender was for Rs.1,46,00,000/- approximately and amount of Rs.1,45,00,000/- has already been paid.

The contentions raised by learned counsel for the respondents can be dealt with during arbitration at the appropriate stage.

Without making any comments on the contentions of learned counsel for the respondents, the present petition is accordingly disposed of by appointing Mr. Bua Jee Sansi, Addl. District & Sessions Judge (Retd.), H. No. 59, Tara Singh Avenue, Basti Bawa Khel, Kapurthala Road, Jalandhar as the sole arbitrator subject to declaration to be made by him under Section 12 of the Act with regard to his independence and impartiality to settle the dispute between the parties.

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 |