

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-14095-2023
Date of decision: 06.07.2023

THE MANGALPUR KAUSHIK CO-OP. L AND C SOCIETY LTD.

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Ravi Dutt Sharma, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India for seeking setting aside of the office order No.52 dated 29.03.2023 (Annexure P-12) passed by respondent No.4 whereby legal notice submitted by the petitioner has been dismissed. It has been averred by the respondents have no taken into consideration the complete facts and that even if the liquidated damages are taken into consideration, yet, the amount payable to the petitioner would exceed the amount of liquidated damages that may be claimed by the respondents. On a pointed query, learned counsel fairly concedes that the contract awarded contained a clause of execution by third agency, in the event of termination of the contract, at the risk and cost

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of the petitioner. Further, he also fairly concedes that there is an arbitration clause in the contract executed between the parties.

It is also apparent from the perusal of the order passed by the respondent-authorities that the petitioner has not only delayed the execution of work by 16 months but also liquidated damages are being claimed. Besides, the respondents have directed the petitioner agency to complete the work as per the terms and conditions of the contract.

Taking into consideration, the response of the respondents as noticed in the order passed by them, it can be safely conclude at this stage that there are disputed questions of fact involved or *inter se* adjudication of rights and claims/counter claims.

Since the petitioner fairly concedes that there is an arbitration clause, hence, this writ petition would not be maintainable in view of an efficacious alternative remedy to the petitioner.

The present petition is accordingly disposed of as not pressed at this stage with liberty to the petitioner to take recourse to the alternative remedies available to him in accordance with law.

(VINOD S. BHARDWAJ)
JUDGE

JULY 06, 2023
Vishal Sharma

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No