

2023:PHHC:160553

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

ARB-337-2023 (O&M)
Date of Decision:-14.12.2023

Virender Singh Nandal ... Petitioner
Versus
State of Haryana and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sandeep K. Sharma, Advocate,
for the petitioner.
Mr. Sharad Aggarwal, DAG, Haryana.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking appointment of an Arbitrator in terms of provisions of Section 11 of Arbitration and Conciliation Act, 1996 (hereinafter referred to as '*the Act*'). .
2. It is the case of the petitioner that the petitioner had entered into an agreement (Annexure P-3) with the respondents for construction of Primary Health Centre and residential quarters at Village Pakashma in District Rohtak. The said agreement specifically provided that in case of any dispute, the same would be resolved by Superintendent Engineer, Rohtak Circle, Hr. PWD (B&R) Br. Rohtak and upon failure of the same being resolved, the matter

was to be referred to the Arbitrator. A dispute having arisen, the petitioner invoked arbitration and issued notice dated 16.6.2023 (Annexure P-5) to the respondents, but to no avail.

3. Pursuant to issuance of notice of motion, Mr. Sharad Aggarwal, DAG, Haryana has put in appearance on behalf of the respondent – State. Learned State counsel has passed on a copy of order dated 8.11.2023 passed by Superintendent B&R(W) for Additional Chief Secretary to Government of Haryana, Public Works (B&R) & Architecture Department indicating that Shri Chaman Lal, Engineer-in-Chief (Retd.) has been appointed as sole Arbitrator. The same is taken on record.
4. However, this Court finds that the said Arbitrator has been appointed after the petitioner had already approached this Court by way of filing a petition under Section 11 of Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator. While the petition was instituted on 29.7.2023, the aforesaid order was passed on 8.11.2023. Hon'ble Apex Court in M/s Durga Welding Works Versus Chief Engineer, Railway Electrification, Allahabad and another, (2022)3 SCC 98 while relying upon judgments in M/s Datar Switchgears Ltd. Versus Tata Finance Ltd. & Anr., 2008(8) SCC 151 and Punj Lloyd Ltd. Vs. Petronet MHB Ltd., 2006(2) SCC 638, reiterated that once an application Under Section 11(6) of the Act is instituted in the High Court for appointment of Arbitrator, the respondent forfeits his right to appoint an arbitrator, and High Court alone would have jurisdiction to appoint arbitrator.
5. Since the agreement (Annexure P-3) specifically provides for resolution of disputes by way of arbitration and the petitioner had already served notice dated 16.6.2023 (Annexure P-5) upon the respondents so as to invoke

arbitration clause, the instant petition merits acceptance and is hereby accepted.

6. Accordingly, Shri B.M. Bedi, District & Sessions Judge (Retd.), Haryana is appointed as the sole Arbitrator. However, such appointment would be subject to the declaration to be made by Shri B.M. Bedi, District & Sessions Judge (Retd.), Haryana under Section 12 of the Act with regard to his independence and impartiality to settle the disputes between the parties.
7. The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended or as may be mutually settled by the parties and the Arbitrator.
8. The Arbitrator shall conduct proceedings at Chandigarh or at any other place convenient to all concerned.
9. After seeking convenience of the Arbitrator, the parties are directed to appear before him on 9.1.2024 at 11:00 A.M. or any other date suitable to all concerned.
10. A copy of this order be sent to the appointed Arbitrator at the given address :

H. No. 22, Sector 4, Panchkula.
Phone Nos.0172-4173603, 80543-81862.
11. The petition is accordingly disposed of in the above mentioned terms.

14.12.2023
pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No