

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

215 CWP No.511 of 2024
Date of decision: 22.11.2024

M/s Gram Tarang Employability Training Services Pvt. Ltd. ...Petitioner

V/s

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Rohit Khanna, Advocate, for the petitioner.
Mr. Jastej Singh, DAG, Punjab.
Mr. Sukhdeep Singh Bhinder, Advocate, for respondent No.3.
Mr. Avinit Avasthi, Advocate, for respondent No.4.

VIKRAM AGGARWAL, J.

1. The petitioner has prayed for the following substantive relief:-

*“CIVIL WRIT PETITION UNDER ARTICLE 226/227
OF THE CONSTITUTION OF INDIA SEEKING
APPROPRIATE WRIT, ORDER OR DIRECTION IN THE
NATURE OF MANDAMUS DIRECTING THE RESPONDENT
NO. 4, TO DECIDE THE REFERENCE PETITION DATED
26.12.2023. (ANNEXURE P-38) FILED BY THE PETITIONER
IN TERMS OF ARTICLE 24.3 OF THE MEMORANDUM OF
UNDERSTANDING (ANNEXURE P-1);*

*FOR ISSUANCE OF A WRIT, ORDER OR DIRECTION
IN THE NATURE OF CERTIORARI FOR QUASHING THE
ORDER DATED 22.12.2023, (ANNEXURE P-37) WHEREBY
RESPONDENT NO. 3 HAS TERMINATED THE
MEMORANDUM OF UNDERSTANDING AND HAS ALSO
FORFEITED THE PERFORMANCE BANK GUARANTEES
OF THE PETITIONER AND HAS FURTHER DIRECTED TO
DEPOSIT THE ALLEGED BALANCE REVENUE SHARE OF
RS. 16,44,383, THAT TOO WITHOUT GRANTING ANY*

OPPORTUNITY OF BEING HEARD;

FOR ISSUANCE OF A WRIT IN THE NATURE OF MANDAMUS OR PROHIBITION OR ANY OTHER WRIT, ORDER OR DIRECTION, THEREBY RESTRAINING THE RESPONDENTS FROM TERMINATING THE MEMORANDUM OF UNDERSTANDING AND FROM TAKING ANY ACTION IN FURTHERANCE OF THE ORDER DATED 22.12.2023 (ANNEXURE P-37), AND ALSO FOR STAYING THE OPERATION OF THE IMPUGNED ORDER DATED 22.12.2023 (ANNEXURE P-37), TILL THE DISPOSAL OF THE REFERENCE PETITION DATED 26.12.2023, (ANNEXURE P-38) PENDING ADJUDICATION BEFORE RESPONDENT NO. 4 AND FOR OTHER ALLIED AND CONSEQUENTIAL RELIEFS; AND

FOR ISSUANCE OF AN AD-INTERIM, EX-PARTE ORDER OR DIRECTION RESTRAINING RESPONDENTS FROM TERMINATING THE MEMORANDUM OF UNDERSTANDING OR FROM TAKING ANY ACTION OR ANY OTHER COERCIVE MEASURES AGAINST THE PETITIONER, IN FURTHERANCE OF THE ORDER DATED 22.12.2023, (ANNEXURE P-37) AND ALSO FOR STAYING THE OPERATION OF THE IMPUGNED ORDER DATED 22.12.2023 (ANNEXURE P-37) DURING THE PENDENCY OF THE PRESENT WRIT PETITION.”

2. The petitioner claims to be a social entrepreneurial initiative in skill training, working in largely underdeveloped regions of the country and is committed towards providing young people with high quality vocational education and skill training, relevant and recognized certifications, resulting in meaningful employment and successful careers in the organized sector.

3. Respondent No.3 (Punjab Skill Development Mission) had decided to undertake selection of private training partners for setting up Operations and Maintenance of Multi Skill Development Centre on “Hub and Spoke Model” with placement facility at Ludhiana. As a result, two-step process for the selection of suitable concessionary was undertaken pursuant

to which, initially an expression of interest was floated through the National Skill Development Corporation and interested applicants were shortlisted. After evaluation of the proposals received in pursuance of a request for proposal document dated 09.09.2015, the proposal of the petitioner was accepted and notice of award dated 20.11.2015 was issued to the petitioner. A memorandum of understanding dated 09.03.2016 (Annexure P-1) was executed.

4. Certain issues are stated to have arisen between the parties, the details of which are not relevant at this stage. Ultimately, vide order dated 22.12.2023, the memorandum of understanding was terminated and process of invoking bank guarantees was initiated.

5. The petitioner filed a reference of disputes before respondent No.4 (Punjab Infrastructure Regulatory Authority) (for short the “PIRA”) in terms of Article 24.3 of the Memorandum of Understanding. However, for it came to the notice of the petitioner that the respondent had illegally and arbitrarily invoked the earlier bank guarantees on 30.12.2023 and that further on 04.01.2024, the revised bank guarantee for Rs.60,50,000/- had also been invoked, the instant writ petition was filed.

6. In the short reply filed on behalf of the General Manager of respondent No.3, it has been submitted that the instant writ petition was filed without waiting for the reference to be taken up by respondent No.4. It has further been averred that since the PIRA is not functional, a decision has been taken by the Government of Punjab on 05.02.2024 (Annexure R-1) that the appointment of Arbitrator in such cases should be left to the discretion of this Court:-

“Dated, Chandigarh the 05 Feb, 2024

To

“1) All the Special Chief Secretaries/Additional Chief Secretaries/ Financial Commissioners/ Principal Secretaries & Administrative Secretaries to govt. of Punjab.

2) The Registrar, Punjab and Haryana High Court.

3) Managing Director, Punjab Infrastructure Development Board.

4) Secretary, Punjab Infrastructure Regulatory Authority.

Subject:- Regarding taking decision to appoint the Arbitrators in absence of Chairperson and Members at PIRA.

Madam/Sir,

I am directed to inform you that the following decisions have been taken for appointment of Arbitrators:-

a) The appointment of Arbitrator in cases pending before the Hon'ble High Court, should be left to the discretion of the Hon'ble High Court.

b) The existing list of Arbitrators as mentioned in the Punjab and Haryana High Court and updated time to time will be used for appointment of arbitrators in future cases with the approval of competent authority in consultation with Ld. Advocate General, Punjab. However the Arbitration Fee should not be more than that has been prescribed in Schedule-B of the "Punjab and Haryana High Court (Arbitrator's Panel and Fee) Rules, 2011.

Jahduk Under Secretary, Finance

ID. No-1/21/20211-5FE4/40 Dated, Chandigarh: 5/2/2024”

7. In view of the above, today, during the course of arguments, learned counsel for the parties have arrived at a consensus. It has mutually been agreed that for effective and conclusive resolution of the dispute, the matter be referred for arbitration and for the said purpose, a Single Member Arbitral Tribunal be appointed. With their mutual consent, learned counsel for the parties have proposed the name of Justice Rajiv Sharma, a former Judge of this Court, to be appointed as the sole Arbitrator.

this Court, is appointed as the Single Member Arbitral Tribunal to adjudicate upon the disputes/issues pending in the instant matter for which, the parties shall appear before the said Arbitrator on 09.12.2024 at 10.00 a.m.

The petition is disposed of in the above terms.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

November 22, 2024
vcgarg

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No