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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(114-2)

ARB-43-2022 (O&M)
Date of decision:- 28.02.2024

M/s Rohan Rajdeep Tollways Limited ... Petitioner

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Radhika Suri, Senior Advocate with
Mr. Ramanjit Singh, Advocate and
Mr. Abhinav Narang, Advocate for the petitioner.

Mr. Jasbir Singh, Addl. A.G., Punjab
for respondent No.1.

Mr. Avinit Avasthi, Advocate
for respondent No.2.

SUVIR SEHGAL, J. (ORAL)

1. By way of instant petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (for short “the Act”), petitioner has approached this Court for appointment of a substitute Arbitrator to settle the dispute between the parties.
2. Counsel for the petitioner submits that on a dispute raised by the petitioner, an Arbitral Tribunal consisting of three members was appointed in terms of Clause 19.2 of Concession Agreement, Annexure P-1. He submits that upon a challenge made, by order dated 13.08.2021, which is a part of the Annexure P-2, mandate of one of the Arbitrator (Sh. Manmohan

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Singh) was terminated. He has requested that a substitute Arbitrator be appointed in his place.

3. Upon notice, reply has been filed on behalf of the respondents, wherein the factual position has been admitted. A notification dated 05.02.2024, issued by the Government of Punjab, has also been placed on the record. Upon specific instructions received from Mr. Tajinder Singh, Executive Engineer, PWD (B&R), State counsel submits that the petitioners do not have any objection in case a substitute Arbitrator is appointed in place of Mr. Manmohan Singh, whose mandate has been terminated vide order under challenge.

4. I have heard counsel for the parties and considered their respective submissions.

5. Notification dated 05.02.2024, issued by the Department of Finance, Government of Punjab deserves to be noticed and its relevant extract is reproduced as under:-

“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.”

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6. In view of the above development, prayer made in the petition deserves to be acceded to.
7. Accordingly, petition is allowed. Sh. G.K. Dhir, District & Sessions Judge (Retd.). H.No. 572, Old Sunny Enclave, Behind Gurudwara Sahib, Sector 123-125, Kharar, District SAS Nagar (Mohali), Mobile Nos. 9815739308 and 8558803501, is appointed as a substitute Arbitrator to adjudicate the dispute between the parties, subject to declaration to be made by him under Section 12 of the Act with regard to his independence and impartiality to adjudicate the dispute between the parties.
8. Parties are directed to appear before the Arbitrator Tribunal on the date, time and place to be fixed by it.
9. Copy of the order be sent to the appointed Arbitrator.

(SUVIR SEHGAL)
JUDGE

28.02.2024
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No