



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ARB-37-2023(O&M)
Date of decision:-24.09.2024

M/s IKE Pvt. Ltd.

...Petitioner

Versus

Haryana Vidyut Prasaran Nigam Ltd.

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr.Nippun Sharma, Advocate
for the petitioner.

Mr.Prateek Mahajan, Advocate,
Mr.Daanish Mahajan, Advocate and
Mr.Mayank Vashishth, Advocate
for the respondent.

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 sole Arbitrator to adjudicate the dispute between the parties.

2. Counsel for the petitioner submits that the petitioner was awarded a project for Commissioning etc. of Equipments for Construction of 220 KV GIS Sub-station Roz-Ka-Meo (Palwal) vide



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allotment letter dated 05.03.2019, Annexure P2, and Clauses 48 and 49 of the contract agreement provided for settlement of dispute and appointment of arbitrator. Counsel submits that the project could not be completed within the stipulated time and the period of its completion was extended. However, some disputes arose between the parties and as per Clause 48, by letter dated 03.12.2022, Annexure P8, petitioner requested the respondents to appoint an Empowered Officer to resolve the disputes. As the disputes were not resolved, petitioner filed the instant petition.

3. Upon notice by this Court, petition has been contested by the respondent by filing a short reply wherein it has been submitted that the Empowered Officer gave his decision, Annexure R2, which was communicated to the petitioner by letter dated 09.12.2022, Annexure R3. A specific objection has been taken by the respondents that the petitioner has not invoked the arbitration clause before approaching this Court.

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

5. In *M/s Veer Agro Foods Versus State of Haryana and others* (ARB Case No.324 of 2018 decided on 12.01.2024), this Court has held that the issuance of notice invoking the arbitration clause is a sine qua non and pre-condition for initiating proceeding under Section 11 of the Act. In absence of such notice, arbitration proceedings cannot commence. As the petitioner has not invoked the arbitration clause, instant petition is not maintainable.



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- 6. Petition is dismissed.
- 7. However, liberty is granted to the petitioner to follow the mandate of Section 21 of the Act and, in case it is so advised, file a fresh petition.
- 8. Pending application, if any, is disposed of.

24.09.2024

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Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

(SUVIR SEHGAL)
JUDGE