

(105)

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

CM-2589-CII-2024 in/and RA-CR-20-2024 in ARB-242-2022

Date of decision : 16.02.2024

The Oasis Contractor and Consultants Private Limited

.....Petitioner

Versus

Director, Rural Development and Panchayat Department, Mohali

....Respondent

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA,  
ACTING CHIEF JUSTICEPresent: Mr. Saurav Khurana, Addl. Advocate General, Punjab,  
for the applicant/respondent – State.Mr. Dheeraj Mahajan, Advocate,  
for the non-applicant/petitioner.

\*\*\*\*

**G.S. SANDHAWALIA, ACTING CHIEF JUSTICE ( Oral )**

1. The present review application filed by the State is also barred by 48 days. It has been directed against the order dated 17.11.2023 passed in ARB-242-2022, whereby declaration, as required under Section 12 (5) of the Arbitration and Conciliation Act, 1996, was called for from a former Judge of this Court, to be appointed as an Arbitrator.

2. The issue of limitation as such had been raised at that point of time by the State, which would be clear from the said order. No such issue had been raised, as now sought to be raised in the review application, that as per the terms of the agreement inter-se the parties, the appointment of Arbitrator was to be of a technical officer, which is now sought to be agitated. After receiving the necessary declaration, as was sought vide order dated 17.11.2023, final order was thus passed on 08.12.2023, appointing the

Arbitrator to adjudicate the dispute(s) between the parties. The said order is not the subject-matter of review, which is the effective order.

3. Learned counsel for the non-applicant/petitioner has also pointed out to the Procedural Orders passed by the learned Arbitrator. She has already held three sittings. On the first sitting held on 22.12.2023, it was noticed that none was appearing on behalf of the State and vide a letter, the State had informed the learned Arbitrator that they were seeking to get the order reviewed. The learned Arbitrator was constrained to notice that it was going to delay the Arbitral proceedings. The second procedural order passed on 08.01.2024 would go to show that the claim statement was filed by the non-applicant/petitioner and the same had also been served upon the State. It has also been noticed that the Superintending Engineer, Rural Development and Panchayat Raj, Jalandhar, had telephonically contacted the learned Arbitrator, apart from sending an e-mail regarding the factum of filing of review petition. The third procedural order passed by the learned Arbitrator on 23.01.2024 would go to show that even the fee was fixed in the presence of the officials of the State, by noticing that the claim petition was for Rs. 89.83 crores and the fee was calculated as Rs. 37.50 lacs, which was to be shared equally by both the parties, apart from other miscellaneous expenses and per sitting hearing towards travelling expenses, and the proceedings were to be conducted at Chandigarh Arbitration Centre of this Court. The matter now has been fixed for 08.03.2024 for filing of Statement of Defence. Long date was given because of request of the State.

4. A perusal of the file would go to show that no such objection was taken at the time, when the matter was taken up and only the issue of limitation had been raised. Having given up the objection as such, it would not

lie in the mouth of the State to raise the said plea. Even otherwise, the undersigned is of the considered opinion that no prejudice as such is going to be caused, if a retired Judge of this Court adjudicates the claim. The whole purpose of having speedy and expeditious resolution of disputes continues to be attempted to be frustrated by the State in its normal manner by filing the present application.

5. The application for condonation of delay and the review application are, accordingly, dismissed.

( G.S. SANDHAWALIA )  
ACTING CHIEF JUSTICE

February 16, 2024  
ndj

|                           |     |
|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether reportable        | No  |