

Neutral Citation No. 2024:PHHC: 049267

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

243

ARB-99-2023 (O&M)
Date of Decision:10.04.2024

ER. PANKAJ ARORA BUILDERS
AND GOVT. CONTRACTOR

... Petitioner

Vs

STATE OF PUNJAB AND OTHERS

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. P.S. Rana, Advocate for the petitioner.

Mr. Anil Bansal, DAG, Punjab
for respondents No. 1 and 3.

SUVIR SEHGAL, J. (ORAL)

- 1.. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short 'the Act') for appointment of a sole Arbitrator to adjudicate the dispute between the parties.
2. Counsel for the petitioner submits that the petitioner was allotted work of “Providing and Installing Internal Water Supply and Sanitary Installation in District Administrative Complex and Police Wing at Amritsar” vide letter dated 12.06.2015, Annexure A-1 by respondent No.3. He submits that DNIT contains Clause 25-A, which provides for resolution of disputes by arbitration. He submits that on completion of work, final bill was raised in April, 2022 and part

payment was made in July, 2022. After raising a demand for balance payment counsel submits that petitioner invoked the arbitration clause vide letter dated 24.12.2022, Annexure A-5, but the respondents kept silent.

3. Upon notice, a short reply has been filed by the respondents contesting the petition *inter alia* on the ground that PWD (B&R) Department is a necessary party as it is the nodal executing agency for the work. It has been submitted that payment for the work is to be made by the PWD (B&R) department. Work order as well as the arbitration clause have been admitted. It is further submitted that payments due to the petitioner were released to him and there is no requirement of appointment of an Arbitrator.

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

5. Undisputedly, the work was allotted by respondent No.3. PWD (B&R) department is not the allotting agency. There is no agreement between the petitioner and PWD (B&R) department. This Court is, therefore, of the view that the said department is not a necessary party to the instant petition. Insofar the payment is concerned, there is a dispute between the parties as to whether the entire amount has been paid or not. This aspect, in any case, has to be determined by the Arbitrator. This Court is, therefore, of the view that an Arbitrator deserves to be appointed and the prayer made in the petition deserves to be acceded to.

6. Accordingly, petition is allowed.

7. Mrs. Justice Sabina, (Retd.) former Acting Chief Justice of the Himachal High Court, House No.1842, Sector 34-D, Chandigarh, Mobile No. 9780008138, is requested to act as an Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements.
8. Parties are directed to appear before the learned Arbitrator on date, time and place to be fixed and communicated by the Arbitrator at her convenience.
9. Needless to mention, parties will be at liberty to raise all the claims/defences/counter claims/pleas before the Arbitrator.
10. A request letter along with a copy of this order be sent to Mrs. Justice Sabina (Retd.).

10.04.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

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