

2024:PHHC:071639



***CM-3925-CII-2024 and
CM-8736-CII-2024 in/and
RA-CR-46-2024 in ARB-260-2023***

1

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

102+201

***CM-3925-CII-2024 and
CM-8736-CII-2024 in/and
RA-CR-46-2024 in ARB-260-2023***
Date of decision : 18.05.2024

M/S SUBASH MAHAJAN GOVT CONTRACTOR

... Petitioner

Vs.

THE CHIEF ENGINEER (HQ) AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. S.K.Sharma, Senior Panel Counsel,
for the review applicants-respondents.

Mr. Vishal Gupta, Advocate
for the non-applicant/petitioner.

SUVIR SEHGAL J.(ORAL)

CM-8736-CII-2024

1. Application is allowed, as prayed for.
2. Affidavit of applicants-respondents filed, in compliance of
order dated 30.04.2024, is taken on record.



***CM-3925-CII-2024 and
CM-8736-CII-2024 in/and
RA-CR-46-2024 in ARB-260-2023***

2

CM-3925-CII-2024

3. Prayer in the application is for condonation of delay of 15 days in filing of the review application.
4. Notice of the application was issued to the non-applicant/petitioner. However, no reply has been filed.
5. Counsel for the parties have been heard.
6. This court is of the view that sufficient cause is made out for condonation of delay.
7. Application is allowed.
8. Delay of 15 days in filing of the review application is condoned.

RA-CR-46-2024 in ARB-260-2023

9. Counsel for the review-applicant/respondent has relied upon Clause 70 of I.A.F.W.- 2249, to submit that the clause provides that an Arbitrator should have a degree in Engineering or equivalent, etc. He has made a reference to the arbitration clause, which is reproduced as under:-

*“70. **Arbitration:-** All disputes, between the parties to the contract (other than those for which the decision of the C.W.E. or any other person is by the Contract expressed to be final and binding) shall, after written notice by either party to the Contract to the other of them, be referred to the*



**CM-3925-CII-2024 and
CM-8736-CII-2024 in/and
RA-CR-46-2024 in ARB-260-2023**

3

*sole arbitration of a Serving Officer having degree
in Engineering or equivalent or having passed
final/direct final Examination of Sub-Division-II of
Institution of Surveyor (India) recognized by the
Govt of India to be appointed by the authority
mentioned in the tender documents.”*

10. Counsel for the non-applicant/petitioner, in all fairness, concedes that the arbitration clause mentioned in the main petition was the pre-amended clause and after its amendment, condition regarding the qualifications, as referred to by the counsel for the applicant-respondent, has been incorporated.

11. In view of the above, order dated 09.01.2024, passed by this Court, whereby Sh. B.S.Mehandiratta, Former District & Sessions Judge, was appointed as an Arbitrator is recalled and in his place Mr. Manmohan Singh, Chief Engineer-cum-Engineer-in-chief (Retd.), former Member Punjab Infrastructure Regulatory Authority (PIRA), # 74, Ward No.07, Gurdwara Road, Kharar, Distt. Mohali, Punjab, Mobile No. 9876700454, is appointed as the substitute Arbitrator to adjudicate the dispute between the parties subject to compliance of the statutory requirements.

12. Parties are directed to appear before the Arbitrator 02.07.2024 at 11:00 a.m. at the address mentioned above or at any other place to be



***CM-3925-CII-2024 and
CM-8736-CII-2024 in/and
RA-CR-46-2024 in ARB-260-2023***

fixed with the consent of the parties.

13. Arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended.

14. The Arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the Act and he will continue the proceedings from the stage arrived at by the previous Arbitrator.

15. Needless to mention, parties will be at liberty to raise all the claims/defences/counter claims/pleas before the Arbitrator.

16. Copy of the order be sent to the appointed Arbitrator.

**(SUVIR SEHGAL)
JUDGE**

18.05.2024
pooja saini

<i>Whether Speaking/Reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>