

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

ARB-94-2024 (O&M)
Date of decision:-15.03.2024

Dilip Buildcon Limited
...Petitioner(s)

Versus

PWD B&R Branch, Government of Punjab and others
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA, ACTING CHIEF JUSTICE

Present:- Mr. Rohit Khanna, Advocate,
 Mr. Saurabh Gautam, Advocate,
 Ms. Avni Sharma, Advocate,
 for the petitioner.

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G.S. SANDHAWALIA, A.C.J. (ORAL)

1. This petition has been filed under Section 29A of the Arbitration and Conciliation Act, 1996 (in short the Act) for extending the time for making the arbitral award in the arbitration proceedings between the parties. The same is in relation to the Engineering Procurement and Construction (EPC) Agreement dated 24.06.2015 (Annexure P-1) which is stated to be pending before the Arbitral Tribunal consisting of Mr. Justice (Retd.) M.M. Kumar, presiding arbitrator, Ms. Justice (Retd.) Gita Mittal, arbitrator and Mr. Justice (Retd.) Rameshwar Singh Malik. Thus, the extension of the mandate of the Arbitral Tribunal is sought.

2. Notice of motion.

3. Mr. Salil Sabhlok, learned Senior Deputy Advocate General, Punjab, accepts notice on behalf of respondent No. 1, whereas Mr. Brijeshwar Singh Kanwar, learned senior panel counsel – Union of India, accepts notice on behalf of respondents No. 2 and 3.

4. It has been pointed out from the proceedings of the Arbitral Tribunal dated 17.12.2022 (Annexure P-6) that on account of recusal of Mr. Justice (Retd.) R.K. Jain, who had been appointed nominee of the claimant, the matter was adjourned for filing counter-claim by the claimant and the rejoinder, if any, within three weeks. The proceedings were then deferred to 15.02.2023 by virtual mode. A perusal of the order dated 30.11.2023 would go on to show that the claimant had given its consent regarding extension of the period for further six months in terms of Section 29A(3) of the Act since the period of one year in terms of Section 29A was expiring on 31.12.2023. The counsel for the respondents had sought time to seek instructions. The matter had been deferred to 18.12.2023. The record had been directed to be produced before the Arbitral Tribunal on 18.12.2023. It was noticed that on 18.12.2023 the issue of giving the consent as to extend the time was pending as the file had been sent to the concerned department.

It is not disputed that respondents No. 2 and 3 had given their necessary consent for extension of the period for further six months with effect from 01.01.2024 vide letter dated 29.12.2023 (Annexure P-9). Respondent No. 1 in its e-mail sent on 17.01.2024 (Annexure P-10) had also taken a similar plea of neutrality or no objection to the issue of extension which would be clear from the contents of the e-mail which has been reproduced by the Arbitral Tribunal in its order dated 19.01.2024.

5. The contents of the e-mail dated 17.01.2024 read as under:-

“This is to respectfully submit under instructions and on behalf of the respondent No. 1 in the subject matter that in the absence of consensus from all the parties and no order from the competent Court for the extension of term of the Arbitration Tribunal after the same expires on 31.12.2023, the mandate of the Arbitration Tribunal stands terminated already.

Further proceedings in the subject matter is required to await proper order of the competent Court granting extension of term of the Arbitration Tribunal as per ICADR Rules, 1996.

It is thus respectfully submitted that any further proceedings in the subject matter, if resumed after order of extension of the term of the Arbitration Tribunal by a Court of Law, may kindly be taken up after due notice to the respondent No. 1.

With regards

*Brijeshwar Singh Kanwar
Sr. PC-UI
Counsel for respondent No. 1”*

6. Vide the said order dated 19.01.2024 also it is noticed that the consent from respondents No. 2 and 3 has already been received.
7. Keeping in view the above, the Arbitral Tribunal has deferred the proceedings sine-die till the necessary orders are received since an appropriate application had to be filed before this Court which is now accordingly being dealt with.
8. Keeping in view the above facts that the State of Punjab has also given its consent, this Court finds no plausible reason as such not to accept the plea taken.
9. The present petition, accordingly, stands disposed of by extending the period for six months. Since the arbitral proceedings have already lost considerable period on account of the fact that the matter was adjourned sine-die on 19.01.2024 and the Arbitral Tribunal would then have to re-assemble, the period of six months shall count from 01.04.2024.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

15.03.2024
Amodh Sharma

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No