

ARB-138-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ARB-138-2023

Date of decision:-12.02.2024

M/s Biogenetic Drugs Pvt. Ltd.

...Petitioner

Versus

Haryana Medical Services Corporation Ltd. and another

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr.Ashish Aggarwal, Advocate
for the petitioner.

Mr.Sumit Gupta, Advocate
for the respondents.

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 praying for appointment of an Arbitrator to settle the dispute between the parties.

2. Counsel for the petitioner submits that a contract dated 05.09.2019, Annexure P2, was entered into between the petitioner and the respondents for supply of medicines and medical consumables. He

submits that after the supplies were made, the respondent make some unauthorized deductions from the payments due to the petitioner. He has referred to the correspondence exchanged between the parties and submits that as the dispute could not be resolved, the petitioner served a notice dated 06.01.2023, Annexure P11 invoking the arbitration clause, which has remained unattended.

3. Upon notice, petition has been contested by the respondents by filing a reply. By making a reference to the clauses of the contract, Annexure P2 as well as to letter dated 03.04.2021, Annexure R1, counsel for the respondents submits that under the contract, petitioner was bound to replace the expired medicines and which he did not do. He has urged that respondents were justified in making deductions from the amount payable to the petitioner.

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

5. It is evident from the stand taken by the parties that there is a dispute between them over payment. This Court is, therefore, of the view that the matter deserves to be referred to the Arbitrator in terms of Clause 7.20 of the contract, Annexure P2, as the petitioner has invoked the arbitration clause by serving a notice and the respondents have not responded to it.

6. Accordingly, petition is allowed. Mr. Justice R.P. Nagrath, a former Judge of this Court, r/o House No.162, Sector-123, New Sunny Enclave, Kharar, Mohali, M: 085588-09901 is appointed as the sole Arbitrator to adjudicate the dispute between the parties, subject to declaration to be made under Section 12 of the Act with regard to his

independence and impartiality to adjudicate the dispute between the parties.

7. Parties are directed to appear before the learned Arbitrator on the date, time and place to be fixed and communicated by the learned Arbitrator.

8. The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended.

9. Needless to mention, respondents will be at liberty to raise all the pleas before the Arbitrator.

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

(SUVIR SEHGAL)
JUDGE

12.02.2024

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Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No