



ARB-171-2023

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

251-1.

ARB-171-2023

Date of decision: 14.11.2024

RAJINDER INFRASTRUCTURE PVT. LIMITED**...PETITIONER****VS.****STATE OF PUNJAB AND OTHERS****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. Nikhil Handu, Advocate
for the petitioner.

Mr. Brijesh, AAG, Punjab.

Mr. Lalit Attri, Central Govt. Counsel &
Mr. Sunil Kumar Sharma, Senior Panel Counsel, for UOI.

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 Arbitration Act'), petitioner has approached this Court for appointment of a sole Arbitrator to decide the dispute between the parties.

2. Counsel for the petitioner submits that the petitioner was awarded a work for development of two lane with paved side shoulders on a section of Moonak-Budhala-Bhikhi road of NH-148B. He submits that the value of the contract was Rs.27.42 crores and was to be completed within a period of 12 months from its commencement. He

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submits that the respondents failed to hand over the entire site to the petitioner, as a result of which, work could not conclude in time and after serving a notice dated 01.12.2021, Annexure P-15, petitioner terminated the contract on 31.01.2022, Annexure P-16. He submits that the petitioner exhausted the pre-reference mechanism as provided in arbitration clause No.26.3 and invoked the said clause by serving a notice dated 19.07.2022, Annexure P-19. He submits that by letter dated 07.10.2022, Annexure P-21, petitioner approached the Society for Affordable Redressal of Dispute for appointment of an Arbitrator, but nothing was heard.

3. Upon notice, petition has been contested by respondents No.1 to 4 by filing a response by submitting that an application was submitted by the petitioner for extension of time and the period for conclusion of the contract was extended vide letter dated 10.02.2021, Annexure R-1. A stand has been taken by the respondents that delay in taking possession of the acquired land occurred due to the spread of the contagion and the agitation by the farmer unions. It has been submitted that the factual circumstances were brought to the notice of the petitioner by communication dated 09.02.2022, Annexure P-17, and being force majeure events, which are covered by clause 21.2(a) of the agreement, the claim does not lie.

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

5. From the narration of facts given by the parties as well as the documents appended by them, it is evident that a dispute has arisen

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between the parties. The contract entered into between the parties contains an arbitration clause and after exhausting the mandatory mechanism provided under Arbitration Clause No. 26.3, petitioner has sought appointment of an Arbitrator. As to whether the events are covered by force majeure clause or the delay is attributable to the respondents are matters to be adjudicated by the Arbitrator. This Court, therefore, is of the view that the prayer made in the petition deserves to be acceded to.

6. Accordingly, petition is allowed. Mr. Chief Justice (Retd.) Jaswant Singh, a former judge of this Court, House No.2247, Star Enclave, Sector 48-C, Chandigarh 160047 & House No.197, Sector 19-A, Chandigarh 160019, Mobile No.97800-08136, is nominated as an Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements.

7. Liberty is granted to the parties to raise all claims, counter claims, defences, pleas etc. before the Arbitrator.

8. Needless to mention that all the questions arising between the parties shall remain open for determination in the arbitral proceedings and any observation made hereinabove will not be binding on the learned Arbitrator.

9. A request letter alongwith a copy of this order be sent to Mr. Chief Justice (Retd.) Jaswant Singh.

14.11.2024*sheetal***(SUVIR SEHGAL)
JUDGE**

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