



ARB-169-2024 (O&M)

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

284/2

ARB-169-2024 (O&M)
Date of Decision: 14.10.2024

M/s Kartik Builders

...Applicant

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Anil Kumar Sharma, Advocate for the applicant

Mr. Vinish Singla, Senior Panel Counsel
for Union of India-respondents

JAGMOHAN BANSAL, J. (Oral)

1. Through instant application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short '**1996 Act**'), the applicant is seeking appointment of an Arbitrator.

2. Pursuant to tender, the applicant was allotted work vide allotment letter dated 02.08.2016 (Annexure P-1) by the respondent. Thereafter, an agreement dated 05.10.2016 (Annexure P-2) was executed between the parties. A dispute erupted between the parties. There is an arbitration clause in the General Conditions of Contract. The allotment of work, execution of agreement and arbitration clause in General Conditions of Contract is not disputed.

3. Learned counsel for the respondents submits that the applicant has never sent notice under Section 21 of the 1996 Act and further the claim is

barred by limitation.



4. From the perusal of letter dated 28.01.2021 (Annexure P-12) authored by the respondent and addressed to the applicant, it is evident that the respondent itself proposed the names of four persons and asked the applicant to suggest atleast two names. The said communication cuts the ice. There remains no dispute qua service of notice under Section 21 of 1996 Act.

The aforesaid letter is dated 28.01.2021 and thereafter, communication took place between the parties. Thus, at this stage, it cannot be concluded that the applicant is attempting to rekindle a deadwood. The question of limitation needs to be adjudicated by the Arbitral Tribunal.

5. Conditions to invoke power conferred by Section 11(6) of 1996 Act stand satisfied, thus, I hereby appoint a sole Arbitrator to adjudicate the dispute between the parties.

6. Ms. Justice Ritu Bahri, Chief Justice (Retd.) Uttarakhand High Court, residing at House No.464, I.A.S./P.C.S. Officers Society, Mullanpur, New Chandigarh, District S.A.S. Nagar Mohali, Mobile No.7837049200 is hereby appointed as a Sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements. The learned Arbitrator is requested to comply with mandate of Section 12 of 1996 Act before proceeding further.

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

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



9. The Arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the 1996 Act.
10. Needless to mention, parties would be at liberty to raise all the claims/defences/counter claims/pleas before the Arbitrator. Any observation made hereinabove will not be binding on the learned Arbitrator.
11. Pending application(s), if any, shall also stand disposed of.
12. A request letter along with copy of this order be sent to Ms. Justice Ritu Bahri, Chief Justice (Retd.) Uttarakhand High Court.

(JAGMOHAN BANSAL)
JUDGE

14.10.2024
Mohit Kumar

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