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

ARB-205-2022**Date of decision:-19.11.2024**

EPAY Infoserve Pvt. Ltd.

...Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and another

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Arnav Ghai, Advocate
for the petitioner.

Mr. Prateek Mahajan, Advocate and
Ms. Prerna, Advocate
for the respondents.

SUVIR SEHGAL, J.(ORAL)

1. This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short "the Arbitration Act") for appointment of an independent person as a sole arbitrator to adjudicate the dispute between the parties.

2. Counsel for the petitioner submits that petitioner is designated as an agency for bill collection and an agreement dated 01.07.2017, Annexure P16, was entered into between the parties. He submits that a dispute arose between the parties and by notice dated 09.03.2022, Annexure P23, petitioner invoked the arbitration clause.

3. Upon notice by this Court, respondents have filed a reply wherein it has been submitted that prior to the invocation of the



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arbitration clause by the petitioner, vide letter dated 04.03.2022, Annexure P24, the Managing Director of the respondent - corporation had approved the name of an arbitrator. By referring to communication dated 13.04.2022, Annexure P29, counsel for the respondents submits that the petitioner was called upon to give his consent to the proposed arbitrator, but no response was received and instead the petitioner started insisting on the withdrawal of the criminal cases lodged against him.

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

5. From the documents on the record, it is apparent that both the parties are interested in the appointment of an Arbitrator. It has been settled by the Supreme Court in **Central Organisation for Railway Electrification Versus ECI SPIC MCML (JV), A Joint Venture Company, Law Finder Doc Id # 2662486** that a Managing Director of a Corporation, who is himself an interested person, cannot nominate another person as an Arbitrator from the panel of arbitrators maintained by the Corporation. As disputes persist between the parties, the prayer made in the petition deserves to be acceded to.

6. Accordingly, petition is allowed. Mr. Justice (Retd.) Rajive Bhalla, a former Judge of this Court, resident of H.No. 257, Sector 10-A, Chandigarh, M: 9780008111 is nominated to act as an Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements.

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



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Arbitrator at his convenience.

8. Parties will be at liberty to raise all the pleas/defences before the Arbitrator.

9. Needless to mention that all the questions arising between the parties in this matter will remain open for determination in the arbitration proceedings, and any observation made hereinabove will not be binding on the learned Arbitrator.

10. A request letter be sent to Mr. Justice (Retd.) Rajive Bhalla alongwith a copy of this order.

19.11.2024

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

(SUVIR SEHGAL)
JUDGE