

ARB-183-2023

-1-

233

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ARB-183-2023
Date of decision:-19.01.2024

M/s Shiv Shankar Bansal & Company
...Petitioner

Versus

Additional Chief Secretary, Development and Panchayat Department,
New Haryana Civil Secretariat and others.
...Respondents

CORAM : HON’BLE MR. JUSTICE SUVIR SEHGAL

Present : Ms.Sonia Madan, Advocate
for the petitioner.

Mr.Sharad Aggarwal, DAG, Haryana &
Mr.Harsh Vardhan Sehrawat, AAG, Haryana
for respondents.

SUVIR SEHGAL, J.(ORAL)

1. By way of instant petition filed under Section 11 (5) of the Arbitration and Conciliation Act, 1996 (for short “the Act”), petitioner has approached this Court for appointment of an independent Arbitrator to adjudicate the dispute between the parties.
2. Upon notice, response has been filed by the State taking various objections.
3. Neither the agreement has been questioned by the respondents nor has it been disputed that it contains an arbitration clause. It is an admitted position that the pre-reference procedure of approaching the Appellate Authority has been exhausted by the petitioner. The objection raised by the State counsel while addressing this Court is that

233

the notice, Annexure P14 is defective inasmuch as the petitioner has not invoked the arbitration clause.

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

5. When the notice, Annexure P14 is read as a whole, intention of the petitioner is very clear. Not only in the subject to the notice but even in the body of the notice, the petitioner has made its intention clear that it is invoking the arbitration clause and will approach the Court in case arbitrator is not appointed. State is however harping on the last paragraph of the notice. The objection simply deserves to be rejected as it has not even been raised in the reply.

6. In view of the above, the petition is allowed. Mr.Justice Adarsh Kumar Goel, former Judge of the Supreme Court of India, C-2/24, Safdarjung Development Area, New Delhi - 110016, is appointed as the sole Arbitrator to adjudicate the dispute between the parties.

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

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

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

(SUVIR SEHGAL)
JUDGE

19.01.2024

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No