



ARB-216-2023

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

254

ARB-216-2023

Date of Decision: 17.12.2024

**M/s R.S. Construction, Engineers, Consultants, Builders, Contractors &
Transporters and Another** **...Applicant**

Versus

State Bank of India and others**...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: - Ms. Nevadita Malik, Advocate and
Mr. Abhinay Sharma, Advocate for the applicant
Ms. Madhu Dayal, Advocate for the 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 by the respondent. Thereafter, an agreement dated 29.08.2003 was executed between the parties. A dispute erupted between the parties. There is an arbitration clause in aforesaid agreement. The execution of agreement, arbitration clause therein and service of notice under Section 21 of 1996 Act is not disputed.

3. Learned counsel for the respondents submits that the applicant wrongly approached Jammu & Kashmir and Ladakh High Court instead of approaching this Court and the application remained pending there for 13



years. It was a mistake on the part of applicant, thus, Section 14 of Limitation Act, 1963 does not come to its rescue.

4. The applicant, within reasonable time, approached Jammu & Kashmir and Ladakh High Court and the matter remained pending for 13 years. There is nothing on record disclosing that there was advantage to the applicant to approach Jammu High Court instead of this Court. There is *prima facie* no substance in the argument of the respondents. The applicant cannot be left remediless.

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. Mrs. Justice Rekha Mittal, Retired Judge of this Court, residing at House No.56, Sector 11, Chandigarh, Mobile Nos.8558809903, 9815119903 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. A request letter along with copy of this order be sent to Mrs. Justice Rekha Mittal.

(JAGMOHAN BANSAL)
JUDGE

17.12.2024
Mohit Kumar

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