

ARB-193-2023

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

277

ARB-193-2023
Date of decision:19.03.2024

ASHOK KUMAR ... PETITIONER

VS.

STATE OF PUNJAB AND OTHERS ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Jagdeep Singh Rana, Advocate
for the petitioner.

Mr. Anil Bansal, DAG, Punjab.

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 Act”), petitioner has approached this Court for appointment of an Arbitrator to adjudicate the dispute between the parties.
2. Counsel for the petitioner submits that the petitioner was allotted work vide letter dated 14.02.2011, Annexure P-2, for providing Sewer System in the main city area and the railway line at Sri Muktsar Sahib. He submits that the scope of work was enhanced and upon completion, he raised a bill for an amount of Rs.98,96,729/-. However, the bill remained unpaid and the petitioner approached this Court by

filing a writ petition, which was disposed of on 25.02.2022, Annexure P-3, directing the respondents to decide the representation moved by him. Counsel submits that by office order dated 11.07.2022, Annexure P-4, his representation was rejected and he issued a notice dated 21.09.2022, Annexure P-6, invoking the arbitration clause, which was followed by notices, Annexures P-7 and P-8. However, the respondents ignored the request for appointment of an Arbitrator.

3. Upon notice, reply has been filed by the respondents, wherein the agreement as well as the execution of the work has not been denied, but a stand has been taken that the petitioner has raised bogus bills. It has also been submitted that a Committee comprising of two officials was constituted, who submitted an inquiry report, Annexure R-12, to the effect that a false claim has been raised. It is also the stand of the respondents that the matter has now been referred to the Vigilance Bureau. Yet another objection has been taken that the work was completed in 2013 and the representation was submitted in 2022, therefore, the claim raised is barred by limitation.

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

5. The agreement as well as the arbitration clause are admitted. There is no dispute about the serving of a notice invoking the arbitration clause. Whether the bills raised by the petitioner are genuine or fake, is a matter which would be gone into by the Arbitrator. Still further, the objection regarding limitation raised by the respondents, deserves to be noticed and rejected at this stage as in compliance of the direction passed

by this Court, respondents had rejected the representation of the petitioner vide office order dated 11.07.2022, Annexure P-4, and arbitration clause has been invoked immediately thereafter.

6. Keeping in view the above backdrop, this Court is of the view that the prayer made in the petition deserves to be acceded to.
7. Petition is allowed. Mr. Justice Rajiv Sharma (Retd.), House No. 505 (Backside First Floor), Sector 36-B, Mobile No.9816700002, a former judge of this Court, is requested to act as the sole Arbitrator to adjudicate the dispute between the parties.
8. Parties are directed to appear before the learned Arbitrator on day, time and place to be fixed and communicated by the learned Arbitrator at his convenience.
9. A request letter alongwith a copy of the order be sent to Mr. Justice Rajiv Sharma (Retd.).

19.03.2024
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(SUVIR SEHGAL)
JUDGE

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