



CR-3871-2023

-1-

116

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

CR-3871-2023

Date of decision:-12.12.2024

Signify Innovations India Limited

...Petitioner

Versus

Result Services Private Limited

...Respondent

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Dr. Abhimanyu Chopra, Advocate,
Mr. Abhilaksh Grover, Advocate,
Mr. Aman Chaudhary, Advocate,
Mr. Kushagra Jain, Advocate
for the petitioner.

Ms. Raashi Beri, Advocate and
Mr. Udai Nanda, Advocate
for the respondent.

SUVIR SEHGAL, J.(ORAL)

1. This revision petition has been filed under Article 227 of the Constitution of India, inter alia, for setting aside of impugned order dated 31.03.2023, Annexure P1, passed by the Additional District Judge – cum – Presiding Judge, Exclusive Commercial Court, Gurugram on a petition filed under Section 14 of the Arbitration and Conciliation Act, 1996 (for short “the Arbitration Act”) by the respondent.

2. A brief summary of facts leading to the filing of the revision petition are that a business agreement dated 16.05.2017,



CR-3871-2023

-2-

116

Annexure P2, was entered into between the parties, which was followed by an addendum dated 01.05.2018, Annexure P3. Clause 20 of the agreement provided for Alternative Dispute Resolution and stipulated that in case of a dispute between the parties, it shall be referred to an Arbitrator to be appointed by the petitioner. Some disputes arose and by letter dated 12.07.2019, Annexure P4, petitioner appointed Mr. Abhijat Bal, as an Arbitrator, who entered upon reference and the parties filed their respective pleadings. An application dated 18.10.2021, Annexure P6, was moved by the respondent under Section 12 (5) read with Section 14 of the Arbitration Act challenging the eligibility of the Arbitrator. After contest, the application was disposed off by the Arbitrator by order dated 23.10.2021, Annexure P8, whereby he advised the respondent to approach the Court of competent jurisdiction. Respondent filed a petition, Annexure P10, under Section 14 of the Arbitration Act and after contest, application has been partly allowed vide order impugned herein. The mandate of the Arbitrator has been terminated and liberty has been given to the parties to approach this Court for appointment of fresh arbitrator as per Section 11(6) of the Arbitration Act.

3. Counsel for the petitioner asserts that in view of the provisions as laid down in Section 14 and 15 of the Arbitration Act, after terminating the mandate of the Arbitrator, a substitute arbitrator has to be appointed, who has to continue the proceedings from the stage reached at before the previous Arbitrator. He has placed reliance upon:

(i) **Shailesh Dhairyan Versus Mohan Balkrishna Lulla,**
2016(3) SCC 619;



CR-3871-2023

-3-

116

(ii) *Central Organisation for Railway Electrification Versus M/s ECI SPIC SMO MCML (JV) A Joint Venture Company, 2024 SCC OnLine SC 3219;*

(iii) ARB-479-2024 *Saurabh Vashist Versus Chandigarh Industrial and Tourism Development Corporation Limited (CITCO) and another,* decided on 04.11.2024;

(iv) CR-7862-2023 titled *M/s Gohana Tractors, Meham Road, Gohana and others Versus M/s Escorts Limited,* decided on 29.08.2024;

(v) *Ram Kripal Singh Construction Pvt. Ltd. Versus NTPC,* Law Finder Doc ID # 2063465;

(vi) *D. Ramachandran Versus IG3 Infra Limited,* Law Finder Doc ID # 2367269;

(vii), *GroupL Services Pvt. Ltd. Versus Dr. Sunil Vsudevan & others,* Law Finder Doc ID # 2557216; and

(viii) *Yashovardhan Sinha HUF & Anr. Versus Satyatej Vyapaar Pvt. Ltd., 2022 SCC Online CAL 2386.*

4. Counsel for the respondent has however urged that since the very initiation of the proceedings was by an ineligible person, the substitute Arbitrator has to proceed afresh.

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

6. Under Clause 20 of the agreement, Annexure P2, the power to appoint an Arbitrator had been vested in the petitioner, who exercised it and appointed an Arbitrator of its choice without the consent of the respondent. As is evident from the procedural order dated 12.08.2019,



CR-3871-2023

~~-4-~~

116

Annexure P5, respondent questioned the jurisdiction of the Arbitrator and moved an application under Section 12 (5) of the Arbitration Act requesting him to withdraw the proceedings. After the application was disposed off, the respondent filed a petition before the Commercial Court under Section 14 of the Arbitration Act, which has been partly accepted vide order assailed herein. It cannot be disputed that a unilateral appointment of the Arbitrator has been made by the petitioner after the incorporation of Section 12 (5) by virtue of amending the Act w.e.f. 23.10.2015. Therefore, the appointment of the Arbitrator has rightly been terminated by the learned Commercial Court vide the impugned order. As the Arbitrator was ineligible to be appointed, his appointment is non-est and the entire proceedings conducted by him are a nullity. After the termination of the mandate of the Arbitrator, a duty is cast upon the Court to appoint a substitute Arbitrator. Therefore, exercising power vested under Section 14 and 15 of the Arbitration, this Court proceeds to appoint a substitute Arbitrator.

7. As consented to by both the parties, Mr. Justice (Retd.) G.S. Sistani, a former Judge of Delhi High Court, resident of M-23, Jangpura Extension, New Delhi - 110014, M.No.9871300034 is nominated to act as a substitute Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements. He shall proceed with the arbitral proceedings *de novo*.

8. Parties are directed to appear before the learned Arbitrator on the date, time and place fixed and communicated by the learned Arbitrator at his convenience.

9. Parties will be at liberty to raise all the pleas/defences

**CR-3871-2023****-5-****116**

before the Arbitrator.

10. 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.

11. A request letter be sent to Mr. Justice (Retd.) G.S. Sistani alongwith a copy of this order.

12. Petition is disposed off.

12.12.2024
Brij

(SUVIR SEHGAL)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No