



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Arbitration Case No. 291 of 2023 (O&M)

Date of Decision: 10.05.2024

NKC Constructions Pvt. Ltd.,

.....Petitioner

versus

Punjab Small Industries and Export Corp. Ltd. and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA, ACTING CHIEF JUSTICE

Present : Mr. G.S.Rana, Advocate, for the petitioner.

Ms. Madhu Dayal, Advocate, for the respondent.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

The petitioner has filed this petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of sole arbitrator to adjudicate upon the disputes and differences arising out of the work allotted for construction of Cement Concrete road at Phase VI, IFP, Ludhiana, vide letter dated 20.03.2020.

2. Invocation of the arbitration was done on 07.10.2022 (Annexure A-15) and it was brought to the notice of the respondents that no employee of the respondent-department would act as arbitrator. The objection as such raised by the respondents is that on an earlier occasion the invocation of the arbitration was withdrawn on 18.11.2022 which is countered by learned counsel for the petitioner. It is submitted that vide letter dated 19.03.2023 (Annexure A-18) it has been mentioned that it is only on account of compelling circumstances as the petitioner company had to get the payment of the retention money, it was forced to withdraw the earlier letter. It is in such

circumstances the respondents have also declined for appointment of the arbitrator as per communication dated 04.05.2023 (Annexure A-19). Vide letter dated 07.06.2023 (Annexure A-22) the request for invocation of arbitration made by the petitioner was again rejected.

3. It is pointed out that in an earlier petition between the parties i.e. Arbitration Case No. 290 of 2023, Justice T.S.Dhindsa, a former Judge of this Court was requested to enter as Arbitrator and accordingly he has commenced the proceedings. In such circumstances, this Court feels that it would be appropriate that the same arbitrator is appointed in the present petition.

4. Accordingly, the petition is disposed of by appointing Justice T.S.Dhindsa, former Judge of this Court, as Arbitrator to adjudicate upon the disputes and differences between the parties. The contractor shall make the necessary pre-deposit of 10% as per clause 25(viii) of the agreement (Annexure A-1). The formal declaration as required under Section 12(5) of the Arbitration and Conciliation Act, 1996 be filed in the office.

10.05.2024
ravinder

(G.S.SANDHAWALIA)
ACTING CHIEF JUSTICE

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