

ARB-214-2019(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ARB-214-2019(O&M)
Date of decision:-26.02.2024

S.Kumar Construction Co.

...Petitioner

Versus

Chief General Manager and anr.

...Respondents

CORAM : HON’BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr.Rakshit Gupta, Advocate for
Mr.Rakesh Gupta, Advocate
for the petitioner.

Ms.Anita Sharma, Advocate
for the respondents.

SUVIR SEHGAL, J.(ORAL)

CM-1892-CII-2024

Application is allowed, as prayed for.

Agreement dated 28.01.2014 entered into between the
parties is taken on record as Annexure P3.

ARB-214-2019

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 an agreement dated
28.01.2014, Annexure P3, was entered into between the parties for
“OFC Cable Construction Work (FTTH) in Faridabad SSA (Zone-D-9)”.

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Counsel submits that the dispute arose between the parties as the respondents did not issue work order to the extent as mentioned in the agreement. He submits that the petitioner filed application dated 29.12.2017, Annexure P2, invoking Clause 17.1 of the agreement, which provides for resolution of disputes by an arbitrator, but it did not receive any response from the respondents.

3. Reply has been filed on behalf of the respondents, which is taken on record. Copy has been supplied to the counsel for the petitioner. It has been submitted that as the petitioner had raised fake bills, he was blacklisted by order dated 22.11.2018 (Annexure R3) and the fraud was investigated by the Central Vigilance Commission (CVC). A report was sent by CVC and by communication dated 27.12.2017, Annexure R2, respondents were asked to intimate about the action taken. A recovery of Rs.18,92,243/- was made from the petitioner besides withholding of EMD and security deposited by him. Still further, it is submitted that the petitioner approached this Court and by order dated 29.11.2019, Annexure R5, on a statement made on behalf of the respondents, the blacklisting order was withdrawn with liberty to pass a fresh order. Another order dated 05.02.2022, Annexure R6 has been passed whereby the petitioner has been blacklisted.

4. At this stage, counsel for the petitioner submits that the fresh blacklisting order does not pertain to the agreement, Annexure P3, and rather the same has been passed in an earlier agreement entered into between the parties for the year 2012-13.

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

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6. The agreement between the parties, arbitration clause and application, Annexure P2, have not been denied by the respondents. From the respective stand of the parties, it is evident that a dispute has arisen, which deserves to be referred to an arbitrator for adjudication in terms of Clause 17.1 of the agreement, Annexure P3. In view of the above, prayer made in the petition deserves to be accepted.
7. Accordingly, petition is allowed. Ms.Harsimrat Rai, Advocate, r/o House No. 401, GH-9, Sector 20, Panchkula, Mobile 9915468877, is appointed as an Arbitrator to adjudicate the dispute between the parties.
8. Parties are directed to appear before the Arbitrator on 18.04.2024 at 11:00 A.M. at the address mentioned above or at any other place to be fixed by the Arbitrator.
9. The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended.
10. The arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the Act.
11. Needless to mention, parties will be at liberty to raise all the claims/defences/counter claims/pleas before the Arbitrator.
12. Copy of the order be sent to the appointed arbitrator.

(SUVIR SEHGAL)
JUDGE

26.02.2024

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No