

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ARB-316-2023(O&M)
Decided On: 02.05.2024

M/S AG CONSTRUCTION CO.

.....PETITIONER(s)

Versus

PUNJAB HERITAGE AND TOURISM PROMOTION BOARD AND
OTHERS

.....RESPONDENT(s)

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Rajesh Kumar Girdhar, Advocate
for the applicant-petitioner.

None for the respondents.

SUVIR SEHGAL, J.(Oral)

CM-7534-CII-2024

Application is allowed as prayed for.

Communication dated 29.08.2023 (Annexure A-14) is taken on
record, subject to just exceptions.

Main Case

Instant petition has been filed under Sections 11 and 12 of the
Arbitration and Conciliation Act, 1996 (for short 'the Act'), for appointment of an
independent Arbitrator to decide the dispute/claim of the petitioner.

2, Learned counsel for the petitioner submits that the petitioner was
allotted the work of Beautification of interconnecting roads of Gurudwara Sri
Keshgarh Sahib, Sri Bhora Sahib and Sri Fatehgarh Sahib, vide letter dated
07.08.2019 (Annexure A-2). He submits that due to non release of the payment
by the Government of India, there was delay in the issuance of commencement

order. Counsel submits that the petitioner completed the work, but a dispute arose between the parties as payment of 3rd running bill was withheld. Petitioner approached this Court by filing a writ petition, which was disposed of vide order dated 29.04.2022 (Annexure A-7) with a direction to the authorities to take decision on the representation of the petitioner and to release the payment as per his entitlement. He submits that part payment was released and the remaining claim was rejected vide order dated 17.04.2023 (Annexure A-10). Petitioner served a legal notice, dated 15.05.2023 (Annexure A-11) invoking the Arbitration Clause, but it was rejected by the respondents vide letter dated 19.05.2023 (Annexure A-12). He submits that during the pendency of the instant petition, communication dated 29.08.2023 (Annexure A-14) has been received from the respondents, wherein they have proposed the names of three officials for appointment as Arbitrators.

3. I have heard counsel for the petitioner and considered his submissions.

4. Upon notice to the respondents, neither any response has been filed nor there is any appearance on their behalf even though as per office report, notices have been served. As such, there is no opposition to the petition.

5. From perusal of the communication (Annexure A-14), it is apparent that the respondents do not raise any objection to the petition as they have sent a panel of three names for appointment of Arbitrator. However, the proposal of the respondents cannot be accepted as it has been sent after the expiry of 30 days from the service of notice (Annexure A-11). Respondents have lost their right to make an appointment or to suggest a name.

6. Accordingly, petition is allowed. Mr. Justice (Retd.) M.M. Kumar, former Chief Justice of Jammu and Kashmir, House No.79, Sector 16-A, Chandigarh, M.No.98888-24752, is requested to act as a sole Arbitrator to adjudicate the dispute between the parties.
7. Parties are directed to appear before the learned Arbitrator on a day, time and place to be communicated by him.
8. Liberty is granted to the parties to raise all claims, counter claims, defences, pleas, etc., before the Arbitrator.
9. Needless to mention that all the questions arising between the parties in this matter shall remain open for determination in the arbitral proceedings and any observation made hereinabove will not be binding on the learned Arbitrator.
10. A request letter along with a copy of this order be sent to Mr. Justice (Retd.) M.M. Kumar, at his residential address.

02.05.2024

Aman Dua

(SUVIR SEHGAL)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No