



ARB-326-2023 (O&M)

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

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ARB-326-2023 (O&M)

Date of Decision: 18.07.2024

Ram Kumar Contractor Private Limited

... Petitioner

Vs

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sarthak Gupta, Advocate for the petitioner.

Mr. Anil Bansal, DAG, Punjab

SUVIR SEHGAL, J. (ORAL)

1. By way of the present 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 Arbitrators to adjudicate the dispute between the parties.

2. Counsel for the petitioner submits that vide letter dated 07.01.2020, Annexure P-1, petitioner was intimated that its bid for construction of approaches of Road over Bridge (ROB) in lieu of level



crossing No.B-25 at Km 25/5-6 on Ludhiana -Jakhal section of northern railway falling on Ahmedgarh-Pohir road at Ahmedgarh District Sangrur have been approved. He submits that a contract agreement, Annexure P-2, was entered into between the parties and clause 25, thereof, provides for resolution of disputes through the medium of arbitration. He submits that there were some disputes between the parties and by letter dated 30.11.2022, Annexure P-3, petitioner approached the Executive Engineer for the settlement of the claims in terms of clause 25 *ibid*, which was rejected vide communication dated 03.02.2023. Annexure P-6. He submits that the petitioner invoked the arbitration clause by notice dated 17.03.2023, Annexure P-7, but it remained unattended. He submits that as the contract value is more than Rs.15 Crores as per the terms of the arbitration agreement, a tribunal comprising of three members has to be appointed. He has requested that as the respondents have not taken any step pursuant to the invocation of the arbitration clause, a sole arbitrator be appointed to adjudicate the disputes.

3. Upon notice by this Court, respondents have filed a reply contesting the petition wherein it has been submitted that the petitioner could not complete the contract within the stipulated period and was granted extensions. It has been further submitted that the petitioner raised the claim before the Engineer-in-Charge eight months after the conclusion of the works and therefore, the claim was



barred by time.

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

5. Any stipulation in the arbitration clause which restricts the time period for raising of claim is hit by Section 28 of the Contract Act, 1872. This issue has been settled by the Supreme Court in ***Grasim Industries Limited Versus State of Kerala*** (2018)14 SCC 265. From an analysis of the documents placed on the record by both the sides, it is evident that a dispute exists between the parties and in terms of clause 25 of the Contract Agreement, same is arbitrable. This court therefore does not have any hesitation in acceding to the prayer made in the petition.

7. Accordingly, petition is allowed.

8. Mr. Justice (Retd.) R.K.Garg, former Judge of Punjab and Haryana High Court, Penthouse 1303-1304, Tower-B, Green Lotus Avenue, Zirakpur Mobile No. 09888807564, is requested to act as an Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements.

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

10. Needless to mention, parties will be at liberty to raise all the claims/defences/counter claims/pleas before the Arbitrator. Any



observation made hereinabove will not be binding on the learned Arbitrator.

11. A request letter along with a copy of this order be sent to Mr. Justice R.K. Garg (Retd.).

18.07.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

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