



ARB-519-2021 (O&M)

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

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ARB-519-2021 (O&M)
Date of Decision: 12.08.2024

M/s Esspee Construction

...Applicant

Versus

Director Student Welfare-Cum-Estate Officer Luvas Hisar and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Akshat Dalal, Advocate for the applicant

Mr. Ravinder Singh, Advocate
for Mr. Puneet Gupta, Advocate for the respondent

JAGMOHAN BANSAL, J. (Oral)

1. Through instant application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short '**1996 Act**'), the applicant is seeking appointment of an Arbitrator.
2. The parties entered into agreement dated 01.02.2018. There is an arbitration clause in the aforesaid agreement. The execution of agreement, arbitration clause in the agreement and service of notice under Section 21 of 1996 Act is not disputed.
3. Mr. Ravinder Singh, Advocate submits that applicant did not avail remedy to approach Dispute Review Expert (for short '**DRE**') as



provided in the agreement. The applicant was supposed to approach DRE and thereafter the matter could be referred to Arbitrator. The applicant approached Mr. A.K. Modi who was not competent authority. Any order passed by Mr. A.K. Modi is null and void.

4. Mr. Akshat Dalal, Advocate submits that applicant approached Mr. A.K. Modi who in the agreement was nominated as DRE. The said DRE has passed an order.

5. The applicant is claiming that Mr. A.K. Modi, at the time of passing order, was competent to act as DRE whereas respondent is claiming otherwise. This Court while exercising power under Section 11(6) of 1996 Act does not find appropriate to decide validity of any order/award passed by an authority contemplated in the agreement. All these issues need to be adjudicated by the Arbitrator.

6. Conditions to invoke power conferred by Section 11(6) of 1996 Act stand satisfied, thus, I hereby appoint a sole Arbitrator to adjudicate the dispute between the parties.

7. Mr. Subhash Bhambhu, Chief Engineer (Retd.), PWD (B&R), Haryana, residing at House No.1456, Sector 16-17, Hisar- 125001 Mobile No.9466161456 is hereby appointed as a Sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements. The learned Arbitrator is requested to comply with mandate of Section 12 of 1996 Act before proceeding further.

8. Parties are directed to appear before the learned Arbitrator on date, time and place to be fixed by the Arbitrator at his convenience.
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. Any observation made hereinabove will not be binding on the learned Arbitrator.
12. A request letter along with copy of this order be sent to Mr. Subhash Bhambhu, Chief Engineer (Retd.).
13. Pending application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)

JUDGE

12.08.2024

Mohit Kumar

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