

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

256

ARB No. 361 of 2022

Date of Decision: 18.04.2024

M/s Aggarwal Construction Co.

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**Present:** Mr. G.S.Rana, Advocate for the petitioner.

Mr. Anil Bansal, DAG, Punjab.

SUVIR SEHGAL, J.(ORAL)

1. By way of present petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, the petitioner has moved this Court for appointment of a sole Arbitrator to adjudicate the dispute between the parties.

2. Counsel for the petitioner submits that the petitioner was allotted the work of widening of paved shoulder of a National Highway NH-703-A, which was completed on 30.11.2018. He submits that the final bill was raised on 26.12.2018 however the respondents made a part payment. He submits that by letter dated 20.02.2020 (Annexure A-5), petitioner requested the respondents for appointment of the Dispute Review Expert as provided in Clause 25 of the contract and in response, vide letter dated 18.03.2020, respondent proposed the name of four officials which was objected to by the petitioner as the officials were connected with the execution of the work. He submits that despite subsequent requests, when the Dispute Review Expert was not appointed, petitioner invoked the Arbitration Clause by serving notice dated 29.01.2021 (Annexure A-10) which has remained unresponded.

3. Upon notice, reply has been filed on behalf of respondents No. 1 to 3 wherein it has been submitted that the matter was required to be referred to the Dispute Review Expert before being referred to an Arbitrator. Petition has been contested on merits. It has also been submitted that there was a delay in the handing over of the site due to the pendency of litigation.
4. I have heard the counsel for the parties and considered their respective submissions.
5. The sole objection raised by the respondents cannot be sustained. Petition has availed the pre-reference mechanism but the respondents did not appoint the Dispute Review Expert. As the contract and the Arbitration Clause have been admitted, this Court has no hesitation in accepting the prayer made in the petition.
6. Petition is allowed. Mr. Justice Vijay K. Jhanji, a former Judge of this Court, r/o House No. 1150, Sector 15, Chandigarh 160036, M: 9810380917 is requested to act as an Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements.
7. Parties are directed to appear before the learned Arbitrator on the date, time and place to be fixed and communicated by the learned Arbitrator at his convenience.
8. Needless to mention, respondents will be at liberty to raise all the pleas/defences before the learned Arbitrator.
9. A request letter be sent to Mr. Justice Vijay K. Jhanji (Retd.) alongwith a copy of this order.

18.04.2024

Rajeev (rvs)

(SUVIR SEHGAL)

JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes