

**CWP-22568-2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****108****CWP-22568-2024****Date of decision:06.09.2024****M/S MALIK ELECTRICALS****...PETITIONER****VERSUS****STATE OF HARYANA AND OTHERS****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL****Present: Dr. Gulab Singh Narwal, Advocate for the petitioner.*************SUVIR SEHGAL, J.**

1. By way of present writ petition, petitioner has approached this Court under Articles 226/227 of the Constitution of India *inter alia* for issuance of a writ in the nature of certiorari quashing order dated 31.08.2024, Annexure P-1, whereby the new Arbitrator has been appointed to adjudicate the disputes between the parties.

2. Counsel for the petitioner submits that an agreement dated 25.07.2007 was entered into between the petitioner and Haryana Shehri Vikas Pradhikaran (HSVP) for providing illumination on some roads. A dispute arose between the parties and the petitioner invoked the arbitration Clause 25 (A) (ii) of the contract agreement on 01.02.2010, but Arbitrator was not appointed. A writ petition was filed and pursuant to the orders passed by this Court, Superintending Engineer, HSVP Electrical Circle, Rohtak, was appointed as an Arbitrator on 23.05.2014. Petitioner deposited his fee as well as filed the claim petition. However, the matter remained pending and no award was announced,

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forcing the petitioner to again approach this Court by filing a writ petition. However, in the meantime, HSVP appointed an Arbitrator, who vide impugned order, Annexure P-1, issued notice to the parties to attend the proceedings. Writ petition filed by the petitioner was withdrawn vide order dated 02.09.2024, Annexure P-2. Challenging the appointment, petitioner has filed the present petition.

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

4. Prior to approaching this Court, petitioner had withdrawn the earlier writ petition with liberty to take recourse to the remedy available to him in accordance with the provisions of the Arbitration and Conciliation Act, 1996 (for short “the Act”). However, instead of availing the remedy available under the Act, petitioner has again invoked Article 226 of the Constitution.

5. It cannot be disputed that the petitioner has an alternate efficacious remedy under the Act to challenge the appointment of the Arbitrator and he has not taken resort to the same. The provisions of the Act have to be given effect to and cannot be permitted to be bypassed. This Court, therefore, refrains itself from exercising the extra ordinary powers vested in it under Article 226 of the Constitution.

6. Petition is dismissed. However, liberty is granted to the petitioner to avail the remedy available to him in accordance with the provisions of the Act.

06.09.2024

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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No