

*ARB-442-2022 (O&M)**-1-*

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

222**ARB-442-2022 (O&M)**

Date of Decision: 06.09.2024

M/S AGGARWAL CONSTRUCTION CO.

... Petitioner

Vs

STATE OF PUNJAB AND OTHERS

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. P.S. Rana, Advocate and
Mr. G.S. Rana, 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 an Arbitrator to adjudicate the disputes/differences between the parties.

2. Counsel for the petitioner submits that work of widening and strengthening of Jalandhar-Jandiala-Nurmehal Talwan Road was allotted to it vide letter dated 21.12.2016, Annexure P-2, for contract price of Rs.17,11,72,800/- and the work was to be completed within a period of 12 months. A contract agreement was entered into between the parties and Clause 25 of General Conditions of Contract provides

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for procedure for resolution of disputes. Counsel submits that the petitioner faced numerous impediments in the execution of the work right from the beginning as neither the vacant possession of the site was handed over nor the respondents coordinated in its execution. He submits that the petitioner applied for extension, which was accepted and the work was completed on 30.06.2021, but the petitioner suffered huge losses. By letter dated 29.11.2021, Annexure A-3 claims were raised before the Executive Engineer-respondent No.4, which were rejected by him vide his communication dated 25.01.2022, Annexure A-4. He submits that in terms of the arbitration clause, vide letter dated 02.02.2022, Annexure A-5, the petitioner requested for an appointment of a Dispute Review Expert (DRE) and although Sh. Anil Kumar Garg, Superintending Engineer, was appointed, vide letter dated 20.05.2022, Annexure A-6 and claims were submitted before him, but he did not render any decision within the stipulated period of 28 days. Counsel submits that petitioner served notice dated 26.08.2022, Annexure A-7, invoking the arbitration clause and instead of accepting this request, respondents vide office order dated 01.09.2022, Annexure A-8, appointed another DRE, who closed the proceedings by his communication dated 10.10.2022, Annexure A-9.

3. Upon notice of this Court, petition has been contested by the respondents by filing reply, wherein it has been submitted that the petitioner is responsible for the delay in the execution and the claims raised by it are not sustainable. A stand has been taken that full and



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final payment has already been made to the petitioner and an amount of Rs.34,65,869/- has been paid as interest on the delayed payment.

He asserts that no dispute subsists between the parties.

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

5. The contract agreement between the parties as well as the arbitration clause have been admitted. Petitioner has invoked the arbitration by serving a notice but the respondents have failed to appoint an Arbitrator. A dispute persists between the parties, which is required to be adjudicated by an Arbitrator. The prayer made in the petition, therefore, deserves to be accepted.

6. At this stage, Mr. P.S. Rana, counsel for the petitioner submits that though the arbitration clause provides for appointment of an Arbitral Tribunal comprising of three arbitrators but in order to save time and expense, a sole Arbitrator be appointed. His request is accepted.

7. Accordingly, petition is allowed. Mr. Chief Justice (Retd.) Jaswant Singh, Ist Address: House No. 2247, Star Enclave, Sector 48-C, Chandigarh. 160047; 2nd Address: House No.197, Sector 19-A, Chandigarh. 160019, Mobile No. 97800-08136, is requested to act as an Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements.

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. 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.
10. A request letter along with a copy of this order be sent to Mr. Chief Justice (Retd.) Jaswant Singh

06.09.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

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