



ARB-461-2022 (O&M)

-1-

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

232

ARB-461-2022 (O&M)

Date of Decision: 24.09.2024

LEA ASSOCIATES SOUTH ASIA PVT. LTD. AND ORS.

... Petitioners

Vs

FARIDABAD SIMART CITY LTD. (FSCL) AND ANR.

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. S.S. Ray, Senior Advocate (through V.C.)
Mr. Ishwinder Singh, Advocate and
Mr. Shubham Thakur, Advocate for the petitioners.

Ms. Vibhooti Malhotra, Advocate (through V.C.)
for the respondents.

SUVIR SEHGAL, J. (ORAL)

1. This petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator to adjudicate the dispute between the parties.

2. Learned senior counsel for the petitioners submits that a contract for consultant service was entered into between the parties on 19.05.2017, Annexure P-1. He submits that Clause 8.1 of the Contract provides for amicable settlement and under Clause 8.2, it has been mentioned that an Arbitrator can be appointed. Counsel submits that some differences arose between the parties and at the request of the petitioners, two different committees were constituted for their resolution but the exercise proved to be futile. He submits that by notice dated 03.03.2021, Annexure P-4, petitioners requested for an amicable settlement in terms of Clause 8.1 of the Contract Agreement.

*ARB-461-2022 (O&M)*

-2-

Although a positive response was received from the respondents, but no settlement could be arrived at. Learned senior counsel asserts that notice dated 12.05.2022 (Annexure P-8) was served upon the respondents invoking arbitration clause suggesting name of the proposed Arbitrator(s) and despite reminders, no appointment was made.

3. Upon notice by this Court, petition has been contested by the respondents by filing a reply, wherein it has been submitted that the affidavit in support of the petition has been filed by a person, who is not authorized to do so. Another objection has been taken that the petition is not supported with the resolutions passed by the petitioner companies. Replication has been filed by the petitioners controverting the stand taken by the respondents.

4. I have heard counsel for the parties as well as examined the documents placed on record.

5. A perusal of the paper book shows that it is supported by three different Vakalatnamas executed by all the three petitioner companies and are duly supported by the resolutions passed by their Board of Directors. The authorized representatives have duly signed the Vakalatnamas. Still further, perusal of Clause 1.7 read with Clause 2 of the Special Conditions of the Contract Agreement shows that M/s LEA Associates South Asia Pvt. Ltd.-petitioner No.1 is the lead party and the other two consortium partners have agreed to be jointly and severally liable for all the steps taken by the lead partner. Therefore, the objections taken by the respondents are rejected. Respondents



have neither denied the arbitration clause nor the agreement entered into between the parties. Facts show that there are disputes between the parties, which deserve to be referred for determination to Arbitrator(s).

6. At this stage, counsel for the parties submit that in order to save time and expense, a sole Arbitrator be appointed. Their request is accepted.

7. Accordingly, petition is allowed. Mr. Justice (Retd.) S. Muralidhar, former Chief Justice, Orissa High Court, 15, Ground Floor, Sadhna Enclave, Panchsheel Park, New Delhi-17, Mobile No.9872727986, is nominated 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.) S. Muralidhar.

24.09.2024

pooja saini

(SUVIR SEHGAL)
JUDGE

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