

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ARB-486-2023

Decided On: 02.05.2024

M/S APOH CONSTRUCTION COMPANY

.....PETITIONER(s)

Versus

STATE OF HARYANA AND OTHERS

.....RESPONDENT(s)

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sachin Gupta Ladwa, Advocate
for the petitioner.

Mr. Aman Bahri, Additional Advocate General, Haryana.

SUVIR SEHGAL, J.(Oral)

The instant petition has been filed under Section 11 of Arbitration and Conciliation Act, 1996 seeking appointment of Arbitrator in terms of Clause 24.1 of agreement Annexure A-1.

On 23.04.2024, this Court passed the following order:-

“On 01.03.2024, this Court passed the following order:-

‘By making a reference to the allotment letter dated 19.09.2019, Annexure A-2, State counsel submits that approximate cost of the work is Rs.33.28 lacs. He submits that in terms of Clause 24.1 of the Conditions of Contract, Annexure A-1, in case value of contract is less than Rs.2 crores, contractor has to file an appeal before the Appellate Authority, and a further remedy has been provided to the contractor, in case, he is dissatisfied, to approach the Court.

Request for deferment has been made on behalf of the arguing counsel.

List on 14.03.2024.

To be shown in the urgent cause list.'

On the adjourned date, matter was deferred on request of the counsel for the petitioner and following order was passed:-

'Request for deferment has been made on behalf of the arguing counsel for the petitioner.

List on 18.04.2024.

No further adjournment shall be granted.

To be shown in the urgent cause list.'

On 18.04.2024, following order was passed:-

'On request of counsel for the petitioner, adjourned to 23.04.2024.

To be shown in the urgent cause list.'

Today a written request for an adjournment has been circulated by the counsel for the petitioner stated that he is in disposed.

In the interest of justice, list on 02.05.2024.

To be shown in the urgent cause list.

Even if arguments are not addressed on the next date, matter will be decided on merits."

2. During the course of hearing, learned counsel for the petitioner has insisted that the petitioner approached the concerned Authority by filing an appeal. He has produced xerox copies of communications dated 07.09.2022,

05.12.2022, 13.12.2022, 09.02.2022 and 10.03.2022, the same are taken on record.

3. Perusal of all the letters issued show that they have been addressed to the Executive Engineer and not even single one of them has been sent to Superintendent Engineer, who is the Appellate Authority under Clause 24.1. It is therefore, evident that the petitioner has not approached the Superintendent Engineer and has not exhausted the pre-reference mechanism provided in the Arbitration Clause.

4. At this stage, learned counsel for the petitioner seeks and is granted permission to withdraw the petition with liberty to approach this Court again, if required, after exhausting pre-reference mechanism provided in Clause 24.

5. Dismissed as withdrawn with liberty aforesaid.

6. Pending application(s), if any, stands disposed of.

02.05.2024

Aman Dua

(SUVIR SEHGAL)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No