

2024:PHHC:139691



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

127

**CWP-28909-2024 (O&M).
Date of Decision: 24.10.2024.**

M/S NKC CONSTRUCTIONS PVT. LTD.

... Petitioner(s)

Versus

STATE OF PUNJAB AND OTHERS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Rohan Markanda, Advocate,
for the petitioner.

VINOD S. BHARDWAJ, J)ORAL).

The present petition has been filed by the petitioner for seeking
issuance of directions to the respondents to release the admitted payment.

2 On being confronted that the petitioner has earlier also
approached this Court consequent whereupon, Hon'ble Mr. Justice Rajan
Gupta (Retd.), has already been appointed as an Arbitrator to adjudicate the
claims, counsel for the petitioner submits that some of the payments had been
admitted by the respondents and that he would not press for the said claims in

2024:PHHC:139691



the pending arbitration proceedings and that the same should be segregated and a direction in this regard may be issued.

3 Learned counsel appearing for the petitioner places reliance on the judgment of the Hon'ble Supreme Court in the matter of **Unitech Limited and others Vs. Telangana State Industrial Infrastructure Corporation (TSIIC) and others, reported as (2021) 16 SCC 35**, to contend that a writ petition is maintainable against the state instrumentalities as defined under Article 12 of the Constitution of India. Notwithstanding the ratio laid down by the Hon'ble Supreme Court in the aforesaid judgment with respect to the maintainability of the writ petition, the core question which comes before this Court is not in relation to the maintainability or enforcement of a contractual obligation but on account of the fact that the petitioner has already taken a recourse to an arbitration proceeding which are still pending. Once the petitioner has taken all these pleas, it would not be appropriate for this Court to segregate some part of the relief which has originally already be raised in the pending arbitration proceedings and thereafter to pass separate orders.

4 The present petition is accordingly dismissed. The petitioner may, if so advised, take recourse to his remedies before the arbitrator.

October 24, 2024.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No