

ARB-483-2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ARB-483-2022
Date of decision:-16.02.2024

M/s A.G. Construction Co.

...Petitioner

Versus

The State of Punjab and others

...Respondents

CORAM : HON’BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr.R.K. Girdhar, Advocate
for the petitioner.

Mr.Anil Bansal, DAG, Punjab.

SUVIR SEHGAL, J.(ORAL)

1. By way of instant petition filed under Section 11 read with Section 12 of the Arbitration and Conciliation Act, 1996 (for short “the Act”), petitioner has approached this Court for appointment of an independent Arbitrator to settle the dispute between the parties.
2. Counsel for the petitioner submits that an allotment letter dated 24.11.2021, Annexure A1, was issued to the petitioner for construction of Indoor System Hall in Government I.T.I. at village Tripari, Kharar, District SAS Nagar. Petitioner started execution of the work and raised a running bill, which remained unpaid. Dispute arose

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between the parties and by memo dated 15.06.2022, Annexure A2, respondents intimated that the administrative approval of the work has been cancelled by the department of Technical Education and Industrial Training Department and petitioner was asked to stop the work. Counsel submits that petitioner represented to the respondents for payment of the amount due and approached this Court by filing a writ petition, which was disposed by order dated 27.07.2022, Annexure A5. He submits that pursuant to the directions passed by this Court, respondents passed a speaking order dated 02.09.2022, Annexure A7, whereby they admitted that some payment was due. He submits that as the payment was not released, after exhausting the pre reference mechanism, by letter dated 13.10.2022, Annexure A9, arbitration clause 25, was invoked.

3. Upon notice, petition has been contested by the respondents by filing a counter affidavit. In their response, the respondents have submitted that the entire amount due to the petitioner has been disbursed. A reference has been made to Clause 56 of the general conditions of the contract to contend that petitioner is not entitled to compensation upon termination of the contract. Still further, it has been submitted that Department of Technical Education and Industrial Training is a necessary party to the petition.

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

5. The objections raised by the respondents do not hold any water. Allotment letter, Annexure A1, was executed between the petitioner and respondent No.4. Although, the work was to be executed for the Department of Technical Education and Industrial Training but

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this Department is neither the allotting nor the executing agency. It is not a necessary party to the petition for appointment of an arbitrator. Moreover, as to whether petitioner is entitled to the amount claimed, would be determined by the Arbitrator.

6. For the foregoing reasons, petition is allowed. Ms. Justice Jaishree Thakur, a former Judge of this Court, r/o House No.36, Sector-8, Chandigarh, is requested to act as the sole Arbitrator to adjudicate the dispute between the parties, subject to declaration to be made under Section 12 of the Act with regard to her independence and impartiality to adjudicate the dispute between the parties.

7. Parties are directed to appear before the learned Arbitrator on the date, time and place to be fixed and communicated by the learned Arbitrator at her convenience.

8. The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended.

9. Needless to mention, respondents will be at liberty to raise all the pleas/defences before the Arbitrator.

10. A request letter be send to Ms.Justice Jaishree thakur (Retd.).

(SUVIR SEHGAL)
JUDGE

16.02.2024

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Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No