



CR-7862-2023

-1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

202

CR-7862-2023

Date of decision:29.08.2024

M/S GOHANA TRACTORS, MEHAM ROAD, GOHANA AND
OTHERS ...PETITIONERS

VS.

M/S ESCORTS LIMITED ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Sumit Gupta, Advocate for the petitioners.

Dr. Anand Bishnoi, Advocate
for the respondent through video conferencing.

SUVIR SEHGAL J. (ORAL)

1. By way of present petition filed under Article 227 of the Constitution of India, petitioners have approached this Court impugning order dated 02.12.2023, Annexure P-8, passed by the sole Arbitrator, whereby application, Annexure P-6, filed by the petitioners requesting the Arbitrator to drop the proceedings, has been rejected.

2. On 05.01.2024, this Court passed the following order:-

*“By placing reliance upon the judgment of
the Supreme Court in **Perkins Eastman Architects
DPC Versus HSCC (India) Limited, 2020 (20) SCC
760**, as well as of this Court in **Bharat Petroleum***



CR-7862-2023

-2-

Corporation Limited Versus M/s Uttar Haryana Bijli Vitaran Nigam, 2021 (4) Law Herald 3072, counsel for the petitioners, inter alia, contends that the respondent is an interested party and cannot unilaterally appoint an Arbitrator, who has been a lawyer for its group-company. He submits that an application under Section 16 of the Arbitration and Conciliation Act, 1996, has been filed for dropping the proceedings, but it has been rejected by the learned Arbitrator vide impugned order dated 02.12.2023, Annexure P-8, and the arbitration proceedings are pending for 16.01.2024.

Issue notice to the respondent returnable on 08.04.2024.

In the meanwhile, further proceedings before the learned Arbitrator shall remain stayed.”

3. Dr. Bishnoi, who has put in appearance on behalf of the respondent. He could not dispute that the Arbitrator had been representing a group-Company as a lawyer.

4. In view of this development as well as the bar under Section 12(5) of the Arbitration and Conciliation Act, 1996, the Arbitrator appointed by the respondent was ineligible.

5. Accordingly, prayer made in the petition deserves to be acceded to. The mandate of the Arbitrator appointed by the respondent is terminated and in his place Sh. K.C. Sharma, District & Sessions Judge (Retd.), # BB-2, VILLA-3, Ground Floor, VIP Floors, Sector 81, Faridabad, Mobile No.8930337700, is appointed as a substitute Arbitrator to adjudicate the dispute between the parties, subject to

declaration to be made by him under Section 12 of the Act with regard to his independence and impartiality to adjudicate the dispute.

6. Petition is disposed of.
7. Parties are directed to appear before the newly appointed learned Arbitrator on 30.09.2024 or on any day, time and place to be fixed and communicated by the learned Arbitrator at his convenience. Arbitrator shall continue the proceedings from the stage reached at by the previous Arbitrator.
8. The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended.
9. Arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the Act.
10. Needless to mention that all the questions arising between the parties in this matter shall remain open for determination in the arbitral proceedings and any observation made hereinabove will not be binding on the learned Arbitrator.
11. Copy of the order be sent to the learned Arbitrator.

29.08.2024

sheetal

(SUVIR SEHGAL)

JUDGE

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