



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

Sr. No.294**ARB-14-2024 (O&M)****Date of Decision: 20.05.2025**

M/s J.K. Infcon Private Limited

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Arjun Chaudhry, Advocate, for the petitioner.

Mr. Balwinder Singh, Assistant Advocate General, Punjab.

TRIBHUVAN DAHIYA, J. (ORAL)

This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short, 'the 1996 Act'), for appointment of an independent Arbitrator to adjudicate disputes and differences that have arisen out of the contract entered into between the parties pursuant to acceptance of the petitioner's bid, dated 20.12.2021, for 'Construction of 7.00 Mtr wide road along Dhusi Bandh on Satluj River for approach to Industrial Zone at Kum Kalan Ludhiana including Maintenance of road for 5 years (One year Defects Liability Period + Four year of Maintenance Period)', at contract price of ₹26,91,36,808.

2. Disputes arose between the parties regarding execution of the construction work, and the petitioner, vide letter dated 13.07.2023, Annexure P-3, claimed compensation from the second respondent/Executive Engineer as per provisions of clause 25 of the contract agreement. It was not responded to, and the petitioner sent another letter dated 30.10.2023, Annexure P-5, invoking and proposing appointment of a panel of three



arbitrators as per clause 25. This letter was not responded to; instead, the petitioner received reply to his earlier letter dated 13.07.2023, vide letter dated 17.11.2023, Annexure P-6, whereby the second respondent rejected all the claims for compensation.

3. Accordingly, it is contended that there are existing disputes between the parties and clause 25 of the contract agreement provides 'Disputes Resolution Mechanism' also; sub-clause (v)(c) whereof stipulates that for original contracts of the value more than ₹15 crore, the disputes shall be referred to the Arbitral Tribunal consisting of three (3) members (two official and one non-official). Therefore, there is no reason Arbitrator should not be appointed by this Court.

4. *Per contra*, learned State counsel has relied upon a stipulation in clause 25 of the contract agreement to contend that there is a fixed time period of 120 days from the date of dispute to refer the same to arbitrator. Since the petitioner raised it for the first time vide letter dated 13.01.2022, Annexure R-2, and the request for Arbitral Tribunal was made vide letter dated 18.10.2023, Annexure R-3, it was beyond the prescribed period. The claim is time barred and cannot be referred to arbitration. In fact, the work had been abandoned by the petitioner from 15.07.2022, after its two running bills were processed.

5. Submissions made by learned counsel for the parties have been considered.

6. There is no denying that as per the contract agreement entered into between the parties, there exists an arbitration clause 25(v)(c). There are disputes between the parties as well. The only objection taken by the respondents to refer the matter to arbitration is the delay in raising the claim by the petitioner. However, it is well settled that maintainability of the claim on account of being time barred is a jurisdictional issue to be adjudicated



upon by the Arbitrator/Arbitral Tribunal only, and it is not for this Court to examine the same in exercise of powers under Section 11(6) of the 1996 Act.

7. Accordingly, petition is allowed. Mr. Justice (Retd.) Ajay Tewari, formerly a Judge of this Court, resident of House No.3038, Sector 21-D, Chandigarh, Mobile No.9780008141, is nominated as Arbitrator to adjudicate the disputes between the parties, subject to compliance of statutory provisions.

8. Parties are directed to appear before the Arbitrator on date, time and place to be fixed by him at his convenience.

9. A request letter along with a copy of the order be sent to Mr. Justice (Retd.) Ajay Tewari.

(TRIBHUVAN DAHIYA)
JUDGE

20.05.2025
Maninder

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