



ARB-23-2024 (O&M)

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

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ARB-23-2024 (O&M)

Date of decision: 18.03.2025

R.A. GUPTA (GOVT. CONTRACTORS, BUILDERS & SUPPLIERS)**....APPLICANT****Vs.****HARYANA STATE WAREHOUSING CORPORATION AND ANR.****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Varun veer Chauhan, Advocate
for the applicant.

Mr. Prateek Mahajan, Advocate and
Mr. Mayank Vashisth, Advocate
for the respondents.

JAGMOHAN BANSAL, J (ORAL)

1. Through instant application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short '**1996 Act**'), the applicant is seeking appointment of an Arbitrator.

2. The parties entered into arbitration agreement dated 17.09.2012. A dispute erupted between the parties. The applicant served notice upon respondent seeking resolution of dispute through arbitral tribunal but to no avail.

3. The execution of arbitration agreement and service of notice invoking arbitration clause is not disputed.

4. Mr. Prateek Mahajan, Advocate submits that as per arbitration agreement, only Managing Director is competent to make appointment of an arbitrator. As per recent judgment of Supreme Court in '**Central Organisation**



for Railway Electrification v. ECI SPIC SMO MCML (JV) A Joint Venture Co., 2024 SCC OnLine SC 3219, the Managing Director cannot make appointment of Arbitrator, thus, arbitration agreement has become irrelevant and applicant is supposed to approach Civil Court. The applicant did not raise objection at the time of final bill and at this stage, he is unnecessarily raising the issue.

5. From the perusal of agreement executed between the parties, it is evident that there was arbitration clause. As per said clause, Managing Director was authorized to make appointment.

6. In view of law laid down by Supreme Court, Managing Director cannot make appointment of an Arbitrator. Other issues raised by respondent need to be adjudicated by Arbitrator. The applicant approached this Court on the earlier occasion by way of ARB-94 of 2019 and said application was disposed of in the wake of statement of respondent that there are chances of amicable settlement between the parties.

7. In the aforesaid factual position, the matter needs to be adjudicated by an Arbitrator. The applicant, as agreed, shall comply with condition of pre-deposit.

8. Conditions to invoke power conferred by Section 11(6) of 1996 Act stand satisfied, thus, I hereby appoint a sole Arbitrator to adjudicate the dispute between the parties.

9. Mr. T.R. Bansal, Additional District and Sessions Judge (Retd.), residing at House No. 768, Sector 22-A, Chandigarh, Mobile No. 9878622768 is hereby appointed as a Sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements. The learned Arbitrator



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is requested to comply with mandate of Section 12 of 1996 Act before proceeding further.

- 10. Parties are directed to appear before the learned Arbitrator on date, time and place to be fixed by the Arbitrator at his/her convenience.
- 11. The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the 1996 Act, as amended.
- 12. The Arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the 1996 Act.
- 13. Needless to mention, parties would be at liberty to raise all the claims/defences/counter claims/pleas before the Arbitrator. Any observation made hereinabove will not be binding on the learned Arbitrator.
- 14. A request letter along with copy of this order be sent to Mr. T.R. Bansal.
- 15. Pending miscellaneous application(s), if any, shall also stand disposed of.

18.03.2025
manoj

[JAGMOHAN BANSAL]
JUDGE

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