

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

236

ARB-74-2023

Date of Decision: 13.01.2025

M/s Chandan Arvind Construction Company

...Applicant

Versus

Executive Engineer, Amritsar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Dheeraj Mahajan, Advocate for the applicant

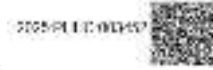
Mr. Gurpartap Singh Bhullar,
Assistant Advocate General, Punjab
[assisted by Mr. Gurmit Singh, S.D.E. PWD (B&R), Amritsar]

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. Pursuant to tender, the bid of the applicant was accepted vide letter dated 23.04.2010 (Annexure P-1). A dispute erupted between the parties. There is an arbitration clause in the conditions of contract. The allotment of work, arbitration clause in conditions of contract and service of notice under Section 21 of 1996 Act is not disputed.

3. Learned State counsel submits that claim of the applicant is barred by limitation. In view of order dated 09.07.2024 of Supreme Court in *Arbitration Petition (Civil) No.15 of 2023, Elfit Arabia and another v. Concept Hotel BARONS Limited and others*, the application is not maintainable on the ground of delay and laches. The Limitation Act is



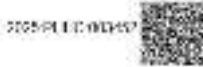
applicable to proceedings under 1996 Act. The last payment was made in 2016 whereas notice under Section 11 of 1996 Act was served on 07.11.2022, thus, the claim is hopelessly barred by limitation.

4. Learned counsel for the applicant submits that respondent prepared measurement book wherein entries with respect to work done were made. As per measurement book, the work has been done as per PWD specifications. The value of work allotted was ₹5.58 Crores whereas respondent till date has made payment of ₹4.69 Crores. The applicant vide letter dated 30.05.2017 (Annexure P-3) requested respondent to make payment. The entry was made in measurement book, thus, applicant had legitimate expectation that respondent being State would make payment as per contract. There was no reason to disbelieve the State. Left with no other option, notice under Section 11 of 1996 Act was served.

5. In view of averment made by the applicant and from the perusal of record, it is evident that it is difficult, at this stage, to conclude that claim of the applicant is hopelessly barred by limitation. It cannot be declared as a deadwood. The Arbitral Tribunal would be appropriate authority to decide question raised by respondent.

6. 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.

7. Mr. Justice Rakesh Kumar Garg, Former Judge of this Court, residing at House No.417, Sector 35-A, Chandigarh, Mobile No.9780008133 is hereby appointed as a Sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements. The learned



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

8. Parties are directed to appear before the learned Arbitrator on date, time and place to be fixed by the Arbitrator at his convenience.
9. The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended.
10. The Arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the 1996 Act.
11. 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.
12. A request letter along with copy of this order be sent to Mr. Justice Rakesh Kumar Garg.

(JAGMOHAN BANSAL)
JUDGE

13.01.2025
Mohit Kumar

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