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

ARB-124-2025

Date of decision: 07.08.2025

M/S SATISH KUMAR GUPTA

...Petitioner(s)

VERSUS

STATE OF HARYANA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Alok Mittal, Advocate and
Mr. Shubham Thakur, Advocate for the petitioner.

Mr. Chirag Wadhwa, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') seeking appointment of an independent Arbitrator to adjudicate the disputes and differences which have arisen between the parties pertaining to an agreement entered into between the parties regarding construction of Government College building at Jundla District Karnal.

2. Learned counsel for the petitioner submitted that there is a valid agreement between the parties and there also exists valid arbitration clauses i.e. Clause 24 and 25. He further submitted that as per the aforesaid Clause 24, if the claim amount is more than Rs.10 crores, then the Arbitral Tribunal is to be constituted consisting of three members and out of the aforesaid three members, one official member, Chairman of the Tribunal, will not be below the rank of



Chief Engineer (serving) of the State Government/State Government Undertakings to be appointed by the Government, another official member will not be below the rank of Superintending Engineer (serving/retired) of Hr. PW (B&R) Deptt. to be appointed by the Government and the third non-official member, a technical expert, will not be below the rank of Superintending Engineer (serving/retired) of Hr. PW (B&R) Deptt. selected by the Contractor from a panel of three persons given to him by the employer, which is not permissible in view of the settled law and also in view of the provisions of Section 12(5) of the Act. He also submitted that as per Clause 25.1, 2% of the claim amount is to be deposited at the time of arbitration but the same is also not permissible in view of the judgment passed by Hon'ble Supreme Court in **Lombardi Engineering Limited versus Uttarakhand Jal Vidyut Nigam Limited, (2024) 4 SCC 341** and stated that the same can always be ignored considering the provisions of Article 14 of the Constitution of India.

3. On the other hand, Mr. Chirag Wadhwa, DAG, Haryana submitted that reply on behalf of respondents No.1 to 4 has been filed. The same is taken on record. While referring to para No.7 of the preliminary objections of the aforesaid reply, he submitted that he has sought specific instructions to state that the respondents have no objection in case any Arbitrator is appointed from the list of Arbitrators mentioned in paras No.8 and 9 of the order dated 01.03.2024, which has already been attached along with the aforesaid reply. He further submitted that the aforesaid order was passed in some other connected matters, wherein four retired Hon'ble Judges were appointed as Single Member Arbitral Tribunal pertaining to different works and not the work pertaining to the present petitioner.



4. Learned counsel for the petitioner submitted that any of the retired Hon'ble Judges may be appointed as an Arbitrator from the aforesaid list.

5. In view of the aforesaid facts and circumstances, this Court is of the considered view that the aforesaid Clause of 2% is liable to be ignored in view of the judgment passed by Hon'ble Supreme Court in **Lombardi Engineering Limited versus Uttarakhand Jal Vidyut Nigam Limited (Supra)**.

6. Consequently, the present petition is allowed. Hon'ble Mr. Justice (Retd.) Rajiv Sharma, a former Judge of this Court, resident of House No.505 (Backside First Floor), Sector 36-B, Chandigarh-160036, Mobile No.9816700002, e-mail ID-rajivtrisha99@gmail.com, is nominated as the Sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory provisions.

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

8. Learned Arbitrator is also requested to complete the proceedings as per the time limit prescribed under Section 29-A of the Arbitration and Conciliation Act, 1996.

9. A request letter alongwith a copy of the order be sent to Hon'ble Mr. Justice (Retd.) Rajiv Sharma, a former Judge of this Court.

(JASGURPREET SINGH PURI)
JUDGE

07.08.2025
Chetan Thakur

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