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

ARB-282-2025

Date of Decision: 10.12.2025

Anumeha Yadav

.... Petitioner

Versus

Sandhu Contractors Private Limited and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. R.K. Girdhar Advocate,
for the petitioner.

Mr. Nikhil Handu, Advocate
for the respondents.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 11 read with Section 12 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') praying for appointment of an independent Sole Arbitrator to adjudicate upon the disputes which have arisen between the parties.

2. Learned counsel for the petitioner submitted that there was an agreement between the petitioner and the respondents with regard to the work of Cement Concrete Lining in Parallel Lower Ganga Canal (PLGC) at Etah, Uttar Pradesh which contains a valid arbitration clause i.e. Clause-r. The said clause has been annexed with the present petition vide Annexure A-1 which provides that in case any dispute or difference arises between the parties, first of all the matter will be referred to the Adjudicator and in case

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the decision of the Adjudicator is not acceptable to any of the party, then the party may move an application for arbitration to the Managing Director of the respondent within 15 days. He further submitted that when the dispute arose between the parties, it was referred to the Adjudicator but no such decision was made by the Adjudicator for a long time and therefore, the petitioner has invoked the aforesaid arbitration clause by issuing notice to the respondent under Section 21 of the Act vide Annexure A-4 dated 01.02.2025. While referring to Para No.4 of the aforesaid notice, he submitted that the petitioner has specifically stated in the notice that multiple attempts were made to resolve the matter amicably but the same were of no use and therefore, notice has been issued for invocation of the arbitration clause for appointment of an independent Sole Arbitrator. He submitted that the aforesaid notice was issued on 01.02.2025 but till date no response has been received from the respondent in this regard and therefore, pre-arbitral mechanism has failed and hence the present petition has been filed under Section 11 of the Act for appointment of an independent Sole Arbitrator by this Court.

3. On the other hand, Mr. Nikhil Handu, Advocate has caused appearance and filed his Vakalatnama on behalf of the respondent, which is taken on record. He submitted that there is no dispute with regard to existence of the aforesaid arbitration clause and that the petitioner has invoked the aforesaid arbitration clause vide Annexure A-4. He however submitted that the aforesaid arbitration clause provides that in case the party is aggrieved by the decision of the Adjudicator, an application for arbitration may be moved by any of the parties, which is a flawed clause because the intention of the party was not to refer the matter to the Arbitrator and



therefore, the present petition may be dismissed.

4. I have heard learned counsels for the parties.
5. The arbitration clause i.e. Clause-r is reproduced as under:-

“r. Arbitration:

The procedure for arbitration will be as follows:-

1. *In case or dispute of difference arising between the Employer and a Contractor relating to any matter arising out of or connected with this work order, such disputes or differences shall be referred for adjudication to the Sr. Project Manager Sandhu Contractors Pvt. Ltd. In case the decision of Adjudicator is not acceptable to any party, It may move an application within 15 days for Arbitration to the Managing Director Sandhu Contractors Pvt. Ltd., for arbitration and his decision will be final and binding.*
 2. *Arbitration proceedings shall be held at Chandigarh, India, and the language of the arbitration proceedings and that of all documents and communications between the parties shall be English.*
 3. *Performance under the contract shall continue during the arbitration proceedings and payments due to the contractor by the owners shall not be withheld, unless they are the subject matter of the arbitration proceedings.”*
6. In the present case, existence of the aforesaid arbitration clause as well as invocation of the aforesaid arbitration clause by issuing notice to the respondent under Section 21 of the Act is not in dispute. The only objection which has been raised by learned counsel for the respondent was with regard to the fact that intention of the parties to refer the matter to the



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Arbitrator is not clear. However, a perusal of the aforesaid arbitration clause would show that it is not a case that the parties intended to decide in future whether the matter is to be resolved through arbitration or not but it is a case wherein a mechanism has already been provided in the aforesaid arbitration clause whereby at the first instance the dispute was to be referred to the adjudicator and thereafter, the party which is not satisfied may move an application for arbitration and in the said arbitration clause it has been so mentioned that the arbitrator shall be the Managing Director of the respondent – m/s. Sandhu Contractors Pvt. Ltd., is otherwise not permissible in view of the provisions of section 12(5) of the Act and also in view of law laid down by Hon'ble Supreme Court in “*Perkins Eastman Architects DPC Vs. HSCC (India) Ltd.*”, 2020(20) SCC 760. Therefore, the contention of the learned counsel for the respondent is misconceived as the intention of the parties to refer the matter to the Arbitrator in case the dispute arises is very clear from the aforesaid arbitration clause although the extent that the Managing Director of the respondent is to be appointed as an arbitrator is contrary to the law laid down by hon'ble Supreme Court as aforesaid and section 12(5) of the Act.

7. In view of the above, the present petition is allowed. Mr. B.S Mehandiratta, District & Sessions Judge (Retd.), resident of House No.2509, Extension 6, Near Beanpole School, Old Sunny Enclave, Kharar, SAS Nagar, Mohali (Punjab) Pin:140301, Mobile No.9814407279, Email id. balmen2248@gmail.com, is nominated as the Sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory provisions including Section 12 of the Act.

8. Parties are directed to appear before the learned Arbitrator on

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date, time and place to be fixed and communicated by the learned Arbitrator at his convenience.

9. Fee shall be paid to the learned Arbitrator in accordance with the Fourth Schedule of the Arbitration Act, as amended.

10. Learned Arbitrator is also requested to complete the proceedings as per the time limit prescribed under Section 29-A of the Arbitration Act.

11. A request letter alongwith a copy of the order be sent to Mr. B.S Mehandiratta, District & Sessions Judge (Retd.).

10.12.2025*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |