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

**ARB-292-2025 (O&M)  
Date of decision: 24.09.2025**

**MBL INFRASTRUCTURE LTD.**

**...Petitioner(s)**

**VERSUS**

**STATE OF HARYANA AND ANOTHER**

**...Respondent(s)**

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present:- Mr. Rohan Markanda, Advocate,  
Mr. Rajesh Markanda, Advocate and  
Mr. Arshdeep Singh, Advocate for the petitioner.

Mr. Nitin Kaushal, Addl. A. G., Haryana.

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**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 various buildings i/c residences of National Law University in Rajiv Gandhi Education City at Rai in Sonapat District.

2. Learned counsel for the petitioner submitted that there is a valid agreement between the parties and there also exist valid arbitration clauses i.e. Clauses 24.3, 24.4, 24.5 and 25. He further submitted that as per Clause 24.3, when the amount of dispute is higher than Rs.10 crores, then the agency may first appeal to the concerned Superintending Engineer and in case the



Contractor is not satisfied with the appeal, he can go for the arbitration and thereafter in Clause 24.4, the description of the three members of the Arbitral Tribunal has been provided. He further submitted that so far as the aforesaid constitution of three-member Arbitral Tribunal is concerned, out of the aforesaid three members, one official member, Chairman of the Tribunal, shall not be below the rank of Chief Engineer (serving) of the State Government/State Government Undertakings, another official member shall not be below the rank of Superintending Engineer (serving/retired) of Hr. PW (B&R) Deptt. and one non-official member, a technical expert, shall 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. He further submitted that the aforesaid Clause of naming the Arbitrators especially the Chairman of the Tribunal is illegal and void in view of the provisions of Section 12(5) of the Act and also in view of the judgment passed by Hon'ble Supreme Court in **Perkins Eastman Architects DPC and another versus HSSC (India) Limited, (2020) 20 SCC 760** and the Constitution Bench judgment in **Central Organisation for Railway Electrification versus M/s ECI SPIC SMO MCML (JV) A Joint Venture Company, 2025 (4) SCC 641** and therefore, such an Arbitral Tribunal cannot be constituted of which the members have been mentioned in the Clause and consequently, an independent Sole Arbitrator may be appointed by this Court.

3. Learned counsel for the petitioner further submitted that so far as the pre-arbitration mechanism which is so provided is concerned, the petitioner filed an appeal before the Superintending Engineer vide Annexure P-2 dated 22.11.2024, in which disputes were raised and it was also so specifically stated



that this may be treated as a notice under Clause 24 and other provisions of the contract but no response was received by the petitioner. He further submitted that thereafter, vide Annexure P-3 dated 15.03.2025, a notice was sent under Section 21 of the Act for invocation of the arbitration clause under Clause 24 and Clause 25 but still no response was received from the respondent. He also submitted that in this way, the mechanism has failed and therefore, the present petition has been filed under Section 11(6) of the Act seeking appointment of a Sole Arbitrator.

4. On the other hand, Mr. Nitin Kaushal, Addl. A. G., Haryana submitted that after the aforesaid letter (Annexure P-2) was issued by the petitioner, the amount was paid to the petitioner. He further submitted that there is a provision of pre-deposit of 2% of the claim amount as per Clause 25.1 but so far as the aforesaid condition of pre-deposit of 2% of the claim amount is concerned, 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**, the issue of pre-deposit can be taken up before the learned Arbitrator at an appropriate stage and therefore, he has no objection in this regard.

5. I have heard the learned counsels for the parties.

6. So far as the condition of pre-deposit of 2% of the claim amount is concerned, the learned State counsel submitted that he has no objection in case the same is taken up before the learned Arbitrator, if so appointed. So far as the argument raised by the learned State counsel that after filing the appeal vide Annexure P-2, the amount has been paid to the petitioner is concerned, this Court is of the considered view that the same is only a subject matter of dispute



and the same cannot be seen by this Court while considering the petition under Section 11(6) of the Act, the extent to which the payment was made or what was the outstanding amount as that lies within the scope of the learned Arbitrator only.

7. In view of the aforesaid facts and circumstances, the present petition is allowed. Mrs. Keshni Anand Arora, Chief Secretary, IAS (Retd.), resident of House No.54, Sector 5, Chandigarh, Mobile No.9988177777, e-mail ID-keshniarora@yahoo.co.in, 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 date, time and place to be fixed and communicated by the learned Arbitrator at her 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 Act.

11. A request letter alongwith a copy of the order be sent to Mrs. Keshni Anand Arora, Chief Secretary, IAS (Retd.).

**24.09.2025**  
Chetan Thakur

**(JASGURPREET SINGH PURI)**  
**JUDGE**

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