261

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ARB-514-2021 (O&M)

Date of decision : September 23, 2025

M/S ASR Engineering and Project Private Ltd.

..... Petitioner

Versus

Haryana Shehri Vikas Pradhikaran

..... Respondents

CORAM : HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

***

Present :-Mr. Polanki Gowtham, Advocate
Mr. Abhinav Sood, Advocate
for the petitioner (Through Video Conferencing).

Mr. Sharad Aggarwal, Advocate
for respondent No.1-H.S.V.P.

Mr. Siddharth Gupta, Advocate
for respondent No. 2. (Through Video Conferencing).

***

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.

2. On 10.02.2023, the following order was passed:-

"*The petitioner has filed this petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short 'the Act') seeking appointment of an arbitrator in terms of Clause 25-A of the agreement entered into between the parties on 06.12.2012 (Annexure P-1) as inspite of the*

ARCHANA ARORA
2025.09.26 16:15
I attest to the accuracy and
integrity of this document

notice issued to the respondents on 04.08.2021, no arbitrator has been appointed.

Learned counsel entering appearance on behalf of the respondent submits that the respondent-HSVP has no objection in allowing the petition and appointing an arbitrator but subject to compliance of Clause 25-A(7) of the agreement which provides for pre-deposit which subsequently is liable to be adjusted and refunded in terms of the said clause.

Learned counsel for the petitioner on seeking instructions submits that the petitioner company has no objection in making the pre-deposit in terms of clause 25-A(7) of the agreement.

In view of the aforesaid and on doing needful in terms of clause 25-A(7) of the agreement, this Court proposes to appoint Justice Ashok Bhan, a former Judge of the Supreme Court of India, as the sole arbitrator to adjudicate upon the disputes between the parties, to which learned counsel for both the parties have no objection.

Let necessary declaration as required under Section 12 of the Arbitration and Conciliation Act, 1996 be obtained from Justice Ashok Bhan and the same be placed on record.

Adjourned to 17.03.2023."

3. In pursuance to the aforesaid order, Hon'ble Mr. Justice Ashok Bhan, a former Judge of the Supreme Court of India was proposed to be appointed as a sole arbitrator to adjudicate upon the disputes between the parties, He has furnished his declaration dated 23.02.2023 under Section 12 of the Arbitration and Conciliation Act, 1996 which has been so reported by the Registry of this Court. The

ARCHANA ARORA
2025.09.26 16:15
I attest to the accuracy and
integrity of this document

Registry is directed to page mark the aforesaid declaration and tag it along with the present petition.

4. Counsel for respondent No.1 has stated that originally the contract was executed with respondent No.1 i.e. Haryana Shehri Vikas Pradhikaran but thereafter by way of an act of the Legislature, the aforesaid task and the entire interest/project has been transferred to respondent No.2 i.e. Gurugram Metropolitan Development Authority (GMDA) and the entire interest and the actual site has also been handed over to respondent No.2.

5. Learned counsel for respondent No.1 submitted that in this way Haryana Shehri Vikas Pradhikaran has got no interest because it has already transferred the aforesaid task and the entire interest/project to respondent No.2 by operation of law and they do not have claim upon the petitioner.

6. Learned counsel for the petitioner and respondent No.2 appearing through Video Conferencing have submitted that he has no objection in case an arbitrator is appointed in the present case and particularly Justice Ashok Bhan, a former Judge of the Supreme Court of India who has already sent a declaration in the present case in pursuance of order dated 10.02.2023. However, counsel for the respondent No.2 has submitted that there was a condition of pre-deposit as per the clause and that the aforesaid issue with regard to the pre-deposit be considered by the learned Arbitrator in view of the judgment of Hon'ble Supreme Court of India in **Lombardi**

ARCHANA ARORA
2025.09.26 16:15
I attest to the accuracy and
integrity of this document

Engineering Limited Vs. Uttarakhand Jal Vidyut Nigam Limited (2024) 4 SCC 341 that such a clause cannot be made a mandatory condition at the time of appointing Arbitrator because the same can always be ignored by the Court being contrary to Article 14 of the Constitution of India.

7. In view of the above facts and circumstances, the present petition is allowed. Hon'ble Mr. Justice Ashok Bhan, a former Judge of Hon'ble Supreme Court of India resident of 302, Sector 10-A, Chandigarh Mobile No. 9868219003, who has already sent his declaration dated 23.02.2023 in terms of the order passed is appointed as an Arbitrator in the present case to adjudicate the dispute/claim 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 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 Act.

11. A request letter along with a copy of the order be sent to Hon'ble Mr. Justice Ashok Bhan, a former Judge of the Supreme Court of India.

ARCHANA ARORA
2025.09.26 16:15
I attest to the accuracy and
integrity of this document

12. Liberty is granted to either of the parties to raise the plea of pre-deposit before the learned Arbitrator in accordance with law.

September 23, 2025 **(JASGURPREET SINGH PURI)**
archana **JUDGE**

Whether speaking/reasoned **Yes**
Whether Reportable : **No**

ARCHANA ARORA
2025.09.26 16:15
I attest to the accuracy and
integrity of this document