



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

CWP-21227-2024

Date of Decision : **February 21, 2025**

M/S V.S.SAINI CONTRACTOR

.....Petitioner

VERSUS

PUNJAB MANDI BOARD AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Dheeraj Mahajan, Advocate for the petitioner.
 Mr. Pardeep Bajaj, DAG, Punjab.
 Mr. Sanjeev Soni, Advocate for respondent No.2 and 3.

KULDEEP TIWARI, J. (Oral)

1. Through the instant petition, as cast under Article 226 of the Constitution of India, prayer is made for issuance of mandamus upon the respondents concerned to constitute the Standing Empowered Committee to adjudicate the claims, as raised by the petitioner on account of the fact that till date neither the Standing Empowered Committee has been constituted nor the claims has been considered on merits.

2. For the better adjudication of the instant petition, at the first instance this Court deems it appropriate to extract the Agreement Clauses 24.1 and 25.1, which read as under:-

“24. Dispute Redressal System

24.1 If any dispute or difference of any kind whatsoever shall arise in connection with or arising out of this contract or the execution of works or maintenance of the work thereunder, whether before its commencement or during the progress of works or after the termination, abandonment or breach of the contract, it shall, in the first instance, be referred for settlement to the competent authority within 45 days of arising of the dispute or difference, described alongwith their powers in the contract

data, above the bank of the engineer. The competent authority shall within a period of 45 days after being requested in writing by the contractor to do so, convey his decision to the contract. Such decision in respect of ever matter so referred shall, subject to review as hereinafter provided be final and binding upon the contractor. In case the works is already in progress, the contractor shall proceed with the execution of the works, including maintenance thereof, pending receipt of the decision of the competent authority as aforesaid, with all due diligence.

24.2 *Either party will have the right of appeal, against the decision of the competent authority to the Standing Empowered Committee within 90 days of decision of the competent authority if the amount appealed against exceeds 0.20 (zero point two zero) percent of the initial contract price.*

24.3 *The composition of the Empowered Standing Committee will be:*

I) One official member, chairman of the Standing Empowered Committee, not below the rank of Additional Secretary to the State Government.

II) One official member not below the rank of Chief Engineer; and

III) One non-official member who will be technical expert of Chief Engineer's or Superintending Engineer's level selected by the Contractor from a panel of three persons given to him by the employer.

24.4 *The Contractor and the employer will be entitled to present their case in writing duly supported by documents. If so requested, the Standing Empowered Committee may allow one opportunity to the contractor and the employer for oral arguments for a specified period. The Empowered Committee shall give its decision within a period of 90 days from the date of appeal, failing which the contractor can approach the appropriate court for the resolution of the dispute.*

24.5 *The decision of the Standing Empowered Committee will be binding upon the employer for payment of claims up to five percent of the initial contract price. The contractor can accept and receive payment after signing as "in full and final settlement of claims". If he does not accept the decision, he is not barred from approaching the courts. Similarly, if the employer does not accept the decision of the Standing Empowered Committee above the limit of five percent of the initial contract price, he will be free to approach the courts applicable under the law."*

3. It is nowhere coming forward that the petitioner within the contract period has approached the competent authority at first instance whose order can be challenged within 90 days, that too with certain limitations with the Empower Standing Committee. Since the petitioner has not approached the authority concerned, therefore, the relief which was sought by the petitioner by serving legal notices was denied.

4. Though the learned counsel for the petitioner has tried to assert before this Court that the petitioner prior to issuance of legal notice has approached the competent authority concerned for adjudication of his dispute, however, such fact is denied by the respondents. Since the disputed questions of facts has arisen, therefore, this Court is refrained from exercising its powers. However, the petitioner is relegated to the learned Civil Court concerned for redressal of his grievance, if any survives. The issue of limitation still remains open for adjudication by the Court concerned.

5. **Disposed** of accordingly.

February 21, 2025
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(KULDEEP TIWARI)
JUDGE

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