



ARB-345-2023 (O&M)

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

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ARB-345-2023 (O&M)

Date of Decision: 19.02.2025

Haryana State Cooperative Supply and Marketing Federation Limited**...Applicant****Versus****M/s Hanuman Rice Mills and others****...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: - Mr. Deepak Balyan, Advocate and
Mr. Vicky Chauhan, Advocate for the applicant
(*through video conferencing*)

Mr. Parminder Singh, Advocate for the respondents

JAGMOHAN BANSAL, J. (Oral)

1. Through instant application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short '**1996 Act**'), the applicant is seeking appointment of an Arbitrator.

2. The parties entered into agreement dated 18.11.2009. A dispute erupted between the parties. There is an arbitration clause in the aforesaid agreement. The execution of agreement and arbitration clause therein is not disputed.

3. Learned counsel for the respondents submits that instant application is barred by limitation. The provisions of Limitation Act, 1963, are applicable to proceedings under 1996 Act. The applicant has approached this Court after three years from the date of last order passed by Arbitrator. The applicant has not served notice under Section 21 of 1996 Act to invoke arbitration proceedings, thus, instant application is not maintainable. In



support of his contentions, he relies upon judgment of Supreme Court in *M/s Geo Millers & Co. Pvt. Ltd. v. Chairman, Rajasthan Vidyut Utpadan Nigam Ltd., 2020 (14) SCC 643*; judgment dated 08.02.2024 passed by this Court in *ARB-111-2023, M/s SAARC Communication Private Limited v. The Doaba Cooperative Milk Producers Union Ltd. and others*; judgment of Delhi High Court in *Active Media v. Divisional Commercial Manager, Northern Railway, ARB.P. No.694 of 2019*; and judgment of Andhra Pradesh High Court in *Andhra Pradesh Beverages Corporation Limited, Hyderabad v. M/s IBM Global Services India Ltd., 2011(8) RCR (Civil) 684*.

4. The arguments of respondents are misconceived. It is not a case of appointment of Arbitrator for the first time. From the perusal of record, it is evident that first Arbitrator was appointed on 12.11.2010 and last Arbitrator was appointed on 01.10.2014. The last Arbitrator could not conclude proceedings on account of non-cooperation of the respondent. Under compelled circumstances, he opted to recuse. The question of limitation could arise had there never been appointed Arbitrator. The question of service of notice under Section 21 of 1996 Act arises if for the first time arbitration agreement is invoked. It is a case where multiple times Arbitrators have been appointed. In view of judgment of Supreme Court in *Central Organisation for Railway Electrification v. ECI SPIC SMO MCML (JV) A Joint Venture Co., 2024 SCC OnLine SC 3219*, the applicant cannot make appointment of Arbitrator, thus, it has approached this Court under Section 11(6) of 1996 Act. The applicant is an instrumentality of the State. Public money is involved and on technical



grounds, the applicant cannot be made remediless. In any case, the respondent is at liberty to raise all the issues before the Arbitral Tribunal.

5. Conditions to invoke power conferred by Section 11(6) of 1996 Act stand satisfied, thus, I hereby appoint a sole Arbitrator to adjudicate the dispute between the parties.

6. Ms. Justice Nirmaljit Kaur, Former Judge of this Court, residing at House No.188, Sector 11-A, Chandigarh, Mobile No.9610478000 is hereby appointed as a Sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements. The learned Arbitrator is requested to comply with mandate of Section 12 of 1996 Act before proceeding further.

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

8. The Arbitrator is expected to proceed from the stage from where the previous Arbitrator recused.

9. The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the 1996 Act, as amended.

10. The Arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the 1996 Act.

11. Needless to mention, parties would be at liberty to raise all the claims/defences/counter claims/pleas before the Arbitrator. Any observation made hereinabove will not be binding on the learned Arbitrator.

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12. A request letter along with copy of this order be sent to Ms. Justice Nirmaljit Kaur.

13. Pending application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

19.02.2025*Mohit Kumar*

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