



208

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

ARB-713-2025

Date of decision: 17.04.2026

M/S NANDINI POWER SOLUTIONS PVT. LTD.

...Applicant(s)

VERSUS

SHARDA INFRACON PRIVATE LIMITED

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Mukesh Kumar, Advocate for
Mr. Saksham Parmar, Advocate for the applicant.
(Through Video Conferencing)

Ms. Aashima Gautam, Advocate for the respondent.
(Through Video Conferencing)

JASGURPREET SINGH PURI, J. (Oral)

1. The present application 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.

2. Reply has been filed on behalf of the respondent in the Court today and the same is taken on record.

3. Learned counsel appearing on behalf of the applicant, who has joined the proceedings through video conferencing, submitted that the respondent had issued a work order to the applicant with regard to external and basement electrical supply and installation work of Tower A, B, C, D and E at NCR Group Housing Project at Sector-95, Gurugram (Haryana), which has been enclosed with the present arbitration case as Annexure P-3 dated



06.12.2021. He further submitted that the aforesaid work order was duly accepted by the applicant and the work was executed and payments were also made in this regard. He further submitted that the aforesaid work order contains two Clauses i.e. Clause 20 and Clause 43. As per Clause 20, although its heading states that it is an arbitration clause but the body of the Clause provides that all disputes and differences which may arise between the parties under “Conditions of Engagement and Scale of Charges” with regard to the meaning or interpretation or matter or things done or to be done in pursuance hereof, shall be referred to Directors of the respondent. Clause 43 provides for the settlement of dispute/arbitration. In the said Clause 43, it has been so provided that with regard to any disputes and differences of any kind whatsoever arising out of or in connection with the contract, the same shall be resolved by reference of the same to a Sole Arbitrator. He further submitted that in this way, there is an arbitration clause contained in Clause 43, whereas Clause 20, although of which the heading is “arbitration”, but it provides for settlement by the Directors of the respondent.

4. Learned counsel appearing on behalf of the applicant submitted that due to the existence of an arbitration clause and subsequent dispute which has arisen between the parties, the applicant invoked the aforesaid arbitration clause No.20 by issuing a notice dated 16.07.2025 (Annexure P-4) seeking appointment of an impartial and independent Arbitrator. He further submitted that the aforesaid notice was received by the respondent, regarding which the tracking receipt has been attached with the present arbitration case as Annexure P-5. However, no reply was filed by the respondent to the aforesaid notice and



since the mechanism for appointment of an Arbitrator has failed, the present application has been filed under Section 11 of the Act seeking appointment of an independent Arbitrator. He also submitted that in the aforesaid Clause 43, the venue of arbitration has been mentioned to be Gurugram.

5. On the other hand, Ms. Aashima Gautam, learned counsel for the respondent, who has joined the proceedings through video conferencing, while referring to the reply filed on behalf of the respondent in the Court today submitted that there is no dispute with regard to the work order, which has been attached along with the present arbitration case as Annexure P-3 dated 06.12.2021. However, the respondent has two-fold objections in the present case. Firstly, with regard to the maintainability of the present arbitration case and secondly, with regard to the limitation for filing the same.

6. She further submitted that the present arbitration case is not maintainable because there is no Clause pertaining to arbitration. While referring to the notice (Annexure P-4) which was issued by the applicant seeking invocation of the arbitration clause, she submitted that reference was made to Clause 20 of the work order but Clause 20 does not relate to any arbitration process on the face of it and since the aforesaid Clause 20 does not provide for any mechanism for referring the disputes to arbitration, the applicant cannot invoke Clause 20. She further submitted that so far as Clause 43 is concerned, it does not reflect any intention of the parties to refer the disputes to arbitration because the said Clause 43 is totally vague and overlaps with Clause 20 and since there is no Clause for seeking any arbitral process in the work order, no Arbitrator can be appointed under Section 11 of the Act.



7. On the issue of limitation, learned counsel for the respondent submitted that the present arbitration case filed under Section 11 of the Act is also hit by limitation because even as per the applicant, the cause of action has arisen in the year 2021 and therefore, after a lapse of four years, the present arbitration case cannot be filed and is liable to be dismissed.

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

9. The work order which has been attached along with the present arbitration case as Annexure P-3 is not in dispute. The applicant has issued a notice to the respondent vide Annexure P-4, regarding which tracking receipt has also been attached as Annexure P-5. There are two Clauses in the aforesaid work order, which have been referred to by both the learned counsels for the parties. Clause 20 and Clause 43 of the work order are reproduced as under:-

“20. Arbitration:

All disputes or differences which may arise between both of us under "Conditions of Engagement and Scale of Charges" with regard to the meaning or interpretation or matter or things done or to be done in pursuance hereof, such disputes and differences shall be referred to Directors of M/s Sharda Infracon Pvt. Ltd. and his decision shall be firm and binding.

43. Settlement of Dispute/Arbitration: - *With regards to any disputes and differences of any kind whatsoever arising out of or in connection with this Contract the same shall be resolved by reference of the same to a sole Arbitrator. The contractor agrees and confirms that the arbitrator shall be appointed by Authorised Signatory of R.R. Infrastructures. The person to be appointed as sole Arbitrator shall not be below the rank of retired Add. Distt. Judge, The Renew of Arbitration shall be at Gurugram only and proceedings shall be conducted as per the Arbitrator and Conciliation Act, 1996.”*



10. A perusal of Clause 20 would show that the heading of the same is “Arbitration” and as per the said Clause, it is very clear that it does not reflect any intention of the parties to arbitrate in case any dispute arises because it clearly provides that the disputes and differences shall be referred to the Directors of the respondent and therefore, Clause 20 does not pertain to arbitration clause at all notwithstanding that the heading of the said Clause is stated to be “Arbitration”.

11. So far as Clause 43 is concerned, its heading is “Settlement of Dispute/Arbitration”. A perusal of Clause 43 of the work order, which is not in dispute, shows that in the event of any disputes or differences of any kind whatsoever arising out of or in connection with the contract, the same shall be resolved by reference of the same to a Sole Arbitrator. Thereafter, it so provides that the Arbitrator shall be appointed by the authorized signatory of R.R. Infrastructures, which means that an authority was mentioned as to who will appoint the Arbitrator and it is further clarified by stating that the person to be appointed as Sole Arbitrator shall not be below the rank of a retired Additional District Judge. Even the seat of arbitration is mentioned to be Gurugram and the Arbitration and Conciliation Act, 1996, is also stated to be applicable to the parties. Therefore, the objection raised by the learned counsel for the respondent that even the aforesaid Clause 43, being vague, does not convey any intention of the parties to refer the matter is totally misconceived. Rather on the other hand, a bare perusal of Clause 43 would clearly show that the intention of the parties was to refer the matter to a Sole Arbitrator and even it has been so agreed between the parties that the Arbitrator shall not be below the rank of a



retired Additional District Judge and also the seat and applicability of the Arbitration and Conciliation Act, 1996 was also provided. Therefore, this Court is of the considered view that clearly the intention of the parties was to refer the matter to a Sole Arbitrator.

12. So far as the second objection raised by the learned counsel for the respondent that the present arbitration case under Section 11 of the Act is hit by limitation of three years is concerned, the same is also misconceived. The law with regard to limitation has been settled by Hon'ble Supreme Court in **SBI General Insurance Co. Ltd. versus Krish Spinning, 2024 SCC OnLine SC 1754**. The notice issued by the applicant vide Annexure P-4 is dated 16.07.2025 and the present arbitration case has been filed on 05.11.2025 and therefore, it is well within the period of three years and is also within the period of limitation. Therefore, the aforesaid objection raised by the learned counsel for the respondent is misconceived and liable to be rejected.

13. In the notice which has been issued by the applicant vide Annexure P-4, reference was made to Clause 20, although the notice was issued for invocation of the arbitration clause, which is clear from paragraph No.9 of the notice, wherein it is mentioned that respondent be called upon to appoint an impartial and independent Arbitrator. This Court is of the considered view that mentioning of Clause 20 in the aforesaid notice instead of Clause 43 would not be fatal for filing the arbitration case under Section 11 of the Act. Mere mentioning of a wrong Clause cannot non-suit the applicant from filing the present arbitration case under Section 11 of the Arbitration and Conciliation Act, 1996.



14. In the aforesaid totality of facts and circumstances, this Court is satisfied that both the essential conditions *sine qua non* for filing the arbitration case under Section 11 of the Act i.e. *prima facie* existence of the arbitration clause and its invocation by issuance of a notice, are satisfied in the present case.

15. Consequently, the present application is allowed. Sh. Rajesh Garg, Addl. District & Sessions Judge (Retd.), resident of House No.-626, Sector 16-A, Faridabad, mobile No.-8558873008, 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.

16. 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.

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

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

19. A request letter alongwith a copy of the order be sent to Sh. Rajesh Garg, Addl. District & Sessions Judge (Retd.).

(JASGURPREET SINGH PURI)
JUDGE

17.04.2026
Chetan Thakur

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