

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

ARB-177-2015

Date of decision:- 22.01.2016

DE Diamond Electric India Pvt. Ltd.

...Petitioner

Versus

Vinit Sharma and another

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE

Present: Mr. Varun Sharma, Advocate,
for the petitioner.

Mr. J.P. Sharma, Advocate,
for the respondents.

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S.J. VAZIFDAR, A.C.J. (ORAL)

This is a petition for the appointment of an arbitrator.

2. The respondent No. 1 was an employee of the petitioner. The petitioner and respondent No. 1 entered into an agreement dated 15.03.2012. The petitioner arranged for respondent No. 1 to be trained in Japan. In respect of the training, the petitioner incurred costs. In consideration thereof, respondent No. 1 agreed to serve the petitioner for a term of three years from the date of his arrival in India after completion of training in Japan. The respondent No. 1 admittedly worked with the petitioner only till 22.05.2014. The petitioner, therefore, seeks to recover the costs under the agreement.

3. Clause 19 contains an arbitration agreement which is awkwardly worded and reads as under:-

“19. If a dispute arises relating to the validity, implementation, breach of this agreement, as the case may be, the same shall be decided by a sole arbitrator who shall be appointed by the Managing Director of DE Diamond Electric India Pvt. Ltd. within 30 working days. In case, sole arbitrator is not appointed within the stipulated period any party may

approach District Court, Rewari, Haryana who shall constitute the arbitral tribunal in accordance with the Arbitration and Conciliation Act, 1996. The arbitral tribunal shall conduct arbitration proceedings in accordance with the applicable laws in India. The said arbitral tribunal shall decide the venue of arbitration.”

4. Clause 19, however, clearly entitles the parties to have the disputes and differences resolved by arbitration.

5. The petitioner's Managing Director, however, did not himself appoint an arbitrator. The respondent No. 2 had furnished a surety bond. The surety bond, however, does not contain an arbitration agreement. The arbitration agreement contained in the underlying contract between the petitioner and respondent No. 1 is inapplicable to the disputes between the petitioner and respondent No. 2.

6. In these circumstances, the petition is disposed of by appointing Mr. Vinod Jain, a retired District and Sessions Judge, Haryana, as the sole arbitrator to adjudicate the disputes and differences between the petitioner and respondent No. 1 only.

7. The petition as against respondent No. 2 is dismissed.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

22.01.2016

Amodh