

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

Arbitration Case No. 95 of 2019

Date of decision: 16th January, 2023

R. A. Gupta (Govt. contractors, Builders and Suppliers) through its
proprietor Ram Avtar Gupta

Petitioner

Versus

Haryana State Warehousing Corporation, Panchkula through its MD and
another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Varun Veer, Advocate for the petitioner.
Mr. Brijesh, Advocate for respondent No. 1.

AVNEESH JHINGAN, J (Oral):

This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') for appointment of an arbitrator for adjudication of disputes between the parties.

The petitioner was allotted tender for constructing godown at Bhawani Khera.

Disputes resolution mechanism has been provided in Clause 25-A.1 of the general conditions of contract. It also provided that prior to invoking arbitration, the dispute has to be sent to the Executive Engineer-in-charge and he shall be bound to convey his decision within sixty days. In case of his failure to do so, the matter can be referred to the arbitrator. The petitioner approached the Executive Engineer vide letter dated 8.3.2017. Having received no response, notice dated 5.9.2017 (Annexure P5) was given for appointment of arbitrator and thereafter the present petition has been filed.

Learned counsel for respondent No. 1 submits that the

petitioner had not approached the Executive Engineer in pursuance to Clause 25-A.1 of the contract. He further submits that vide letter dated 7.10.2017, the petitioner was asked to furnish the tentative claim and by subsequent letter to disclose the nature of dispute.

Learned counsel for the petitioner refutes the contentions and submits that the claim was duly raised vide letter dated 2.8.2017 and the respondents were employing delaying tactics.

In view of the contentions raised by learned counsel for respondent No. 1, there is a dispute between the parties.

Learned counsel for the parties on instructions agree that it would be convenient for both the parties to have arbitration proceedings at Chandigarh. They also agree to the appointment of Mr. T. R. Bansal, Additional District & Sessions Judge (Retd.).

The petition is accordingly disposed of by appointing Mr. T. R. Bansal, Addl. Distt. & Sessions Judge (Retd.), H. No. 768, Sector 22-A, Chandigarh as the sole arbitrator subject to declaration to be made by him under Section 12 of the Act with regard to his independence and impartiality to settle the dispute between the parties.

The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended. The fee of the arbitrator will be equally borne by both the parties.

The arbitrator is requested to complete the proceedings as per time limit specified under Section 29A of the Act.

It is clarified that the reference shall be subject to the petitioner's complying with all the requirements of the agreement including the condition of pre-deposit.

Copy of the order be sent to the appointed arbitrator.

[AVNEESH JHINGAN]
JUDGE

16th January, 2023

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1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No