

Arbitration Case No. 93 of 2021

[1]

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Arbitration Case No. 93 of 2021

Date of decision: 24th February, 2023

M/s Aparna Construction Co.

Petitioner

Versus

State of Haryana and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. P. S. Rana, Advocate for the petitioner.
Mr. Sharad Aggarwal, AAG, Haryana.

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.

On 16.12.2022, following order was passed:

“This is an application under Section under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') filed by the applicant for appointment of an Arbitrator to adjudicate upon the dispute(s) between the parties in terms of Clause 25 of the contract entered between them for construction of Sewerage Treatment Plant at Ladwa Town, District Kurukshetra.

It is submitted that the applicant had disputed the amount paid to it by raising a dispute, which was rejected by the respondents – authorities in the internal mechanism vide letter dated 17.01.2019. Thereafter, the applicant gave a notice dated 21.12.2018 (Annexure A-4) to the respondents for

appointment of an Arbitrator in terms of Clause 25 of the contract entered into between the parties. But the Arbitrator was not appointed by the authorities. Hence, this application.

The respondents have filed reply, opposing the application of the applicant on the ground that claim itself is barred by limitation, as the same had been raised after a considerable delay. It is, however, not disputed that there is an arbitration clause in the agreement and notice for appointment of an Arbitrator had been issued by the applicant on 21.12.2018.

In such circumstances, it is submitted that the questions and objections raised by the applicant may be kept open for consideration and decision by the Arbitrator.

Having heard learned counsel for the parties, this Court proposes to appoint Justice Ramendra Jain, a former Judge of this Court. Learned counsel for the parties submit that they have no objection to his appointment as an Arbitrator.

In view of the above, necessary declaration as required under Section 12 of the Act be obtained and placed on record.

List on 03.02.2023.

In compliance with the aforesaid order, declaration as required under Section 12 of the Act has been received.

Accordingly, the present petition is disposed of by appointing Mr. Justice Ramendra Jain, a former Judge of this Court as sole arbitrator.

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.

Since the main case has been disposed of, pending applications, if any, stand disposed of.

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Copy of the order be sent to the appointed arbitrator.

**[AVNEESH JHINGAN]
JUDGE**

24th February, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |