

213 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
ARB-100-2022

Date of Decision: 6th January, 2023

M/s Naseeb Construction Co.

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Divij Dutt, Advocate for
Mr. Chandan Singh, Advocate for the petitioner.
Mr. Samarth Sagar, Additional Advocate General, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. This petition is filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 for appointment of Arbitrator to adjudicate the dispute.

2. The undisputed facts are that the parties had entered into an agreement dated 7th December, 2017 for construction of Road along Hisar Major Distributary From Sector 1 and 4, HUDA to Mahabir Colony in Hisar District. Clause 24 whereof reads as under:-

“24.1 If any dispute or difference of any kind whatsoever arises in connection with or arising out of this contract or the execution of Works or maintenance of the Works there under, whether before its commencement or during the progress of Works or after the termination, abandonment or breach of the contract, it shall, in the first instance, be referred for settlement to the competent authority, described alongwith their powers in the contract data. The competent authority shall, within a period of forty-five days after being requested in writing by the Contractor to do so, convey his decision to the contractor. Such decision in respect of every matter so referred shall, subject to review as hereinafter provided, be final and binding upon the Contractor. In case the Works is already in progress, the Contractor shall proceed with the execution of Works,

including Maintenance thereof, pending receipt of the decision of the competent authority as aforesaid with all due diligence.

24.2 Either party will have the right of appeal, against the decision of competent authority to arbitrator within a period of 28 days from decision of the competent authority. Either party may give notice to the other for refer a decision of the competent authority to an Arbitrator with in 28 days of the Competent Authority written decision. If neither party refers the dispute to arbitration within the next 28 days, the Competent Authority decision will be final and binding.

24.3 The arbitration shall be conducted in accordance with the arbitration procedure state in the Special Condition of Contract.”

3. Clause 24.1 provides that for settlement of dispute at first instance, it has to be referred for settlement to the Competent Authority, who is bound to convey the decision within forty-five days. As per Clause 24.2 the decision of the Competent Authority is appealable to Arbitrator.

4. Learned State counsel submits that as clause 24 specifies time and procedure for settlement of dispute but the petitioner has not approached the Competent Authority for settlement.

5. Learned counsel for the petitioner on instructions submits that petitioner will approach the competent authority within one week from today.

6. In view of the above, the petition is disposed of.

7. There is no doubt that in case petitioner approaches the Competent Authority, the needful as per clause 24 would be done within the time specified.

(AVNEESH JHINGAN)

JUDGE

6th January, 2023

Parveen Sharma

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No