



ARB-500-2023

-1-

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

259

ARB-500-2023

Date of decision:09.05.2024

INFINITY INFRA

...PETITIONER

VS.

THE STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. R.K. Girdhar, Advocate for the petitioner.

Mr. Brijesh, AAG, Punjab,
for respondents No.1 and 2.

Ms. Ayushi Sharma, Advocate for respondent No.3.

SUVIR SEHGAL J. (ORAL)

1. Instant application has been filed under Section 11 read with Section 12 of the Arbitration and Conciliation Act, 1996, (for short “the Act”), for appointment of an independent Arbitrator to decide the dispute/claim of the petitioner.

2. Counsel for the petitioner submits that the petitioner was issued a work order dated 13.08.2021, Annexure A-2, for laying pre-mix carpet in Ward No.21 Near Canal, Dhuri in District Sangrur by respondent No.3. He submits that the petitioner completed the work within stipulated period and the due payment was released, however, the security amount deposited by the petitioner was deducted from the



ARB-500-2023

-2-

running bills. He submits that the petitioner gave various representations and approached this Court by filing a writ petition, which was disposed of vide order dated 01.06.2023, Annexure A-4, with a direction to respondent No.3 to decide the representation dated 31.08.2022, Annexure A-3. He submits that the respondents passed order dated 01.08.2023, Annexure A-5, rejecting the claim. He submits that in terms of Clause 11 of NIT, petitioner issued notices dated 22.08.2023 and 07.09.2023, Annexures A-6 and A-7, invoking the arbitration clause, which was followed by legal notice dated 12.09.2023, Annexure A-8. He submits that the notices did not yield any result.

3. Upon notice by this Court, respondents No.1 and 2 and respondent No.3 have filed separate replies.

4. Stand taken by contesting respondent No.3 is that the due payment has been made to the petitioner and in terms of Clause 11 of NIT, the Deputy Director is to be appointed as an Arbitrator.

5. I have heard counsel for the parties and considered their respective submissions.

6. The Deputy Director is an official of the State Government, who is naturally interested in the outcome of the dispute. He is de-barred from acting as an Arbitrator in view of the judgment of the Supreme Court in ***Perkins Eastman Architects DPC & Another Versus HSCC (India) Ltd. 2020 (20) SCC 760***. As to whether the entire payment has been made or whether the petitioner is entitled to any amount, is to be determined by the Arbitrator. Prayer made in the petition deserves to be accepted qua respondent No.3.



ARB-500-2023

-3-

7. Petition is allowed. Sh. Bhupesh Dogra, Advocate, # Flat No. 403, Tower-E, Victoria Heights, Peer Muchalla, Sector 5, Zirakpur, SAS Nagar, Mohali, Mobile No.9780622168, is appointed as the sole Arbitrator to adjudicate the dispute between the petitioner and respondent No.3, subject to declaration to be made by him under Section 12 of the Act with regard to his independence and impartiality to adjudicate the dispute.

8. Petitioner and respondent No.3 are directed to appear before the learned Arbitrator on 31.05.2024 or on any day, time and place to be fixed and communicated by the learned Arbitrator at his convenience.

9. The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended.

10. Arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the Act.

11. Needless to mention that all the questions arising between the said parties in this matter shall remain open for determination in the arbitral proceedings and any observation made hereinabove will not be binding on the learned Arbitrator.

12. Copy of the order be sent to the learned Arbitrator.

09.05.2024

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**(SUVIR SEHGAL)
JUDGE**

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No