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

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Date of decision:28.05.2024

**M/S THE CHETANPURA CO-OPERATIVE LABOUR AND
CONSTRUCTION SOCIETY LTD** **...PETITIONER**

VS.

**CHAIRMAN-CUM-MANAGING DIRECTOR OF PSPCL AND
ANR.** **...RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Dheeraj Mahajan, Advocate
for the petitioner.

Mr. R.P.S. Bara, Advocate
for the respondent-PSPCL.

SUVIR SEHGAL J. (ORAL)

1. Instant petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, (for short "the Act"), for appointment of an independent Arbitral Tribunal to adjudicate the disputes between the parties.

2. Counsel for the petitioner submits that work for extension of control room of 66 KV Sub Station Bhabat was allotted to the petitioner on 05.08.2021, Annexure P-1, which was to be completed within 08 months. He submits that some disputes arose between the parties and by a legal notice dated 28.08.2023, Annexure P-3, petitioner approached the



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Senior Executive Engineer for resolution. Counsel submits that the claims were denied by the said official vide communication dated 10.10.2023, Annexure P-4. He submits that by legal notice dated 28.10.2023, Annexure P-5, petitioner invoked the arbitration clause.

3. Upon notice by this Court, respondents have filed a short reply by way of an affidavit of Senior Executive Engineer, which is taken on record, wherein it has been submitted that there was a delay of 11 months in the completion of the construction work. Counsel for the respondents has asserted that final bill was submitted by the petitioner on 22.07.2023, which was followed by letter dated 02.08.2023, wherein the petitioner undertook that it will not claim any financial benefit for the extended period. He submits that the final bill was cleared and the due payment was made. A reference has also been made to communication dated 23.05.2024, Annexure R-1, to submit that an Arbitrator has been appointed.

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

5. From an examination of the documents placed on the record, it is evident that there is a dispute between the parties and the petitioner invoked the arbitration clause by serving notice dated 28.10.2023, Annexure P-5. The respondents did not respond to the notice nor did they make any appointment within the statutory period of 30 days as provided in Section 11 (5) of the Act. The respondents, therefore, lost their right to appoint an Arbitrator and appointment made by them in



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May, 2024 is declared *non-est*. Prayer made in the instant petition deserves to be acceded to.

6. Petition is allowed. Mr. Sanjeev Kaushik, former Member, Central Administrative Tribunal, Kothi No.1033, Sector 12-A, Panchkula, Mobile No.9417233385 is appointed as the sole Arbitrator to adjudicate the dispute between the parties, 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 between the parties.

7. Parties are directed to appear before the learned Arbitrator on 10.07.2024 or on any day, time and place to be fixed and communicated by the learned Arbitrator at his convenience.

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

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

10. Needless to mention that all the questions arising between the 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.

11. Copy of the order be sent to the learned arbitrator.

28.05.2024

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(SUVIR SEHGAL)

JUDGE

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