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

ARB-7-2025

Date of Decision: 13.01.2025

M/S BALWINDER SINGH AND CO Applicant

Versus

STATE OF PUNJAB AND OTHERS Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. B.S. Jaswal, Advocate
for the applicant.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The applicant through instant application under Section 11 of the Arbitration and Conciliation Act, 1996 (for short "1996 Act") is seeking appointment of an Arbitrator to adjudicate the dispute between the parties.

2. The applicant entered into a contract with respondent. The said contract was awarded vide communication dated 10.06.2016. It is apt to notice here that answering respondent is an instrumentality of the State of Punjab.

3. A dispute erupted between the parties. The applicant approached Competent Authority as per terms and conditions of the contract. The respondent-Executive Engineer passed order dated 02.01.2024 whereby claim of applicant was rejected. Feeling aggrieved from said order, the applicant as per terms and conditions of the contract



approached Standing Empowered Committee. The matter is still pending before the said Committee.

4. Mr. B.S. Jaswal, counsel for the applicant submits that respondent has wrongly rejected request of the applicant seeking appointment of an Arbitrator. This Court in exercise of power conferred by Section 11(6) of 1996 Act can make appointment of an Arbitrator to resolve dispute between the parties.

5. Mr. Aman Dhir, DAG, Punjab who on advance notice is present in Court submits that in the agreement, it has been categorically provided that if claim of contractor is rejected, he will have to approach Court and Arbitrator shall not be appointed.

6. I have heard the arguments of learned counsel for the parties and perused the record with their able assistance.

7. Clause 24 of the General Conditions of contract which is relied upon by applicant provides complete mechanism to resolve the dispute between the parties. As per said clause, the contractor is required to approach Competent Authority which shall be above the rank of Engineer. The contractor if feels aggrieved from the order of authority may approach, by way of appeal, to Standing Empowered Committee. In case, he further feels aggrieved, may approach Court for the resolution of the dispute. Clause 25 specifically provides that there will be no Arbitration for the settlement of any dispute between the parties. Clause 25 for the ready reference is reproduced as below:

“25. Arbitration.

25.1 In view of the provision of the clause 24 on Dispute Redressal System, it is the condition of the



contract that there will be no arbitration for the settlement of any dispute between the parties.”

8. From the perusal of aforesaid clause, it is quite evident that there is no Arbitration Agreement. The parties have consciously and deliberately concluded that dispute shall not be referred to Arbitrator.

9. The applicant has already approached Standing Empowered Committee. It has remedy to approach Court, if feels dissatisfied with the order of Standing Empowered Committee.

10. In view of categoric exclusion clause, this Court cannot invoke Section 11(6) of 1996 Act and make appointment of an Arbitrator. Any order of this Court would amount to re-writing the terms and conditions of the contract which is impermissible in law.

11. Dismissed with liberty to avail remedies as permissible by law and contract executed between the parties.

**(JAGMOHAN BANSAL)
JUDGE**

13.01.2025

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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No