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

Date of Decision: 21.12.2022

1. ARB No.74 of 2020(O&M)

**M/s J.P. Singla, Engineers and ContractorsPetitioner
Vs
State of Punjab and others
.....Respondents**

2. ARB No.75 of 2020(O&M)

**M/s J.P. Singla, Engineers and ContractorsPetitioner
Vs
State of Punjab and others
.....Respondents**

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Anupam Singla, Advocate
for the petitioner.

Mr. R.S. Pandher, Sr. DAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

[1]. Vide this common order, ARB No.74 of 2020 titled M/s J.P. Singla Engineers and Contractors Vs. State of Punjab and ARB No.75 of 2020 titled M/s J.P. Singla, Engineers and Contractors Vs. State of Punjab and others are being disposed of. Since both the cases have arisen from identical work order, therefore, facts are

being culled out from ARB No.74 of 2020.

[2]. The petitioner has preferred this petition under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of an independent Arbitrator to adjudicate the dispute between the parties arising out of contract agreement.

[3]. The agreement/work order was executed on 27.12.2016 for definite estimated cost of the project. The work order was revised in the year 2016.

[4]. The grievance of the petitioner is that despite completion of work to the satisfaction of the authority, its payments have not been released, rather security deductions have been made and liquidated damages upto 5% were also imposed due to delay in execution of work.

[5]. The respondents have alleged that delay was occasioned only at the instance of the petitioner, which was not attributable to the respondents and the work was not completed in time and the respondents ultimately got the work completed through some different agency.

[6]. Admittedly, the agreement/work order has an arbitration clause and the same has been invoked by the petitioner. The prayer for appointment of an Arbitrator was considered by the respondents on the basis of comments report submitted by the

Executive Engineer, Lehal Division, I.B. Patiala. It has been observed that there was no encroachments, hindrances and encumbrances over the site in question. A clear site was provided to the petitioner. The entire payment of the total work done by the petitioner as per joint measurement has already been released to the petitioner. The petitioner has already accepted the terms and conditions of DNIT by submitting the tender. As per Clause No.21 of DNIT, no interest is payable for the delayed payment. The respondents have admitted in the reply based on comments of Executive Engineer that Canal between RD 18927 and 23364 was functional since many decades without any objection from any landowners. The objection as regards the Court cases was unpredictable and beyond the control of the department. The dispute was resolved on 08.07.2017, wherein it was decided to change the alignment of the canal.

[7]. Learned counsel for the petitioner on the basis of said facts given in the comments report of the respondents submits that as per revised plan also, the petitioner had done the work even with changed design to the satisfaction of the respondent-authority and in a way, the respondents have admitted the existence of the dispute arising out of the ownership of landowners and ownership remained unpredictable throughout.

As regards payment of final bill, learned counsel for the petitioner submits that the deductions made by the respondents are totally illegal and the final bill was accepted only under protest.

[8]. The assertions and denial made by the parties as regards the security deduction and imposition of liquidated damages to the tune of 5% would remain debatable and the same can only be adjudicated with reference to evidence to be led by the parties before the Arbitrator. The existence of agreement having arbitration clause is not in dispute.

[9]. Petitioner has tentatively valued its claim to the tune of Rs.45,00,000/- in ARB No.74 of 2020 and Rs.52,00,00/- in ARB No.75 of 2020 subject to the final adjudication by the Arbitrator.

[10]. In view of facts and circumstances of the case, I hereby appoint **HMJ Gurmit Ram (Retd.), Kothi No.84, Punjab Judges Enclave, Sector-77, SAS Nagar, Mohali, Mobile No.8558809938** as the sole Arbitrator, to resolve the dispute/difference between the parties. The appointment of the Arbitrator shall be subject to the declaration to be made by him as required under Section 12 of Arbitration and Conciliation Act, 1996 in respect of his independence and impartiality to settle the dispute between the parties.

[11]. The Arbitrator would complete the proceedings within the specified time in terms of Section 29-A of the Act. The Arbitrator shall be paid fee in accordance with the IVth Schedule of the Act as amended from time to time. The fee shall be borne by both the parties equally.

[12]. The seat of the Arbitration shall be disclosed by the Arbitrator as per his/her convenience.

[13]. A copy of this order be dispatched to the Arbitrator on the following address:-

HMJ Gurmit Ram (Retd.),

Kothi No.84, Punjab Judges Enclave, Sector-77,

SAS Nagar, Mohali,

Mobile No.8558809938

[14]. Both the petitions stand disposed of accordingly.

21.12.2022

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Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No