

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Arbitration Case No. 466 of 2021(O&M)

Date of decision: 24th February, 2023

M/s Triveni Constructions

Petitioner

Versus

Union of India and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. J. S. Rana, Advocate for the petitioner.
Mr. Arun Gosain, Senior Panel Counsel for the
respondents.

AVNEESH JHINGAN, J (Oral):

1. This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') for appointment of an arbitrator for adjudication of disputes between the parties.

2. The brief facts are that the petitioner was allotted work for construction of Sewerage Treatment Plant. Clause 70 of the general terms and conditions provided for dispute resolution through arbitration. Relevant portion is reproduced below:

“70. Arbitration.-All disputes, between the parties to the Contract (other than those for which the decision of C.W.E.or any other person is by the Contract expressed to be final and binding) shall, after written notice by either party to the Contract to the other of them, be referred to the sole arbitration of an Engineer Officer to be appointed by the authority mentioned in the tender documents.

Unless both the parties agree in writing such reference shall not take place until after the completion or alleged

completion of the work or termination or determination of the contract under condition Nos. 55, 56 and 57 thereof.”

There was a dispute between the parties.

3. The petitioner served notice dated 19.5.2021 for appointment of the arbitrator. The needful having not been done, the present petition was filed.

4. Learned counsel for the respondents submits that the work was not completed, hence there cannot be appointment of an arbitrator.

5. The contention raised by learned counsel for the respondents lacks merit. From the reading of the aforesaid clause, it is evident that reference can be made after completion of the work or termination or determination of contract. From the pleadings, it is not disputed between the parties that there is determination of contract.

6. Learned counsel for the parties agree to the appointment of Mr. Justice Virender Singh, former Chief Justice as sole arbitrator.

7. The venue shall be fixed by the arbitrator with the consent of the parties.

8. Accordingly, the present petition is disposed of by appointing Mr. Justice Virender Singh, former Chief Justice, Kothi No. 233, Sector 11A, Chandigarh as sole arbitrator subject to declaration to be made by him under Section 12 of the Act with regard to independence and impartiality to settle the dispute between the parties.

9. Needless to say that the respondent would be at liberty to raise alleged issues before the arbitrator.

10. The clause in the terms and conditions and Fourth Schedule of the Act shall govern the fee of the arbitrator. The fee of the arbitrator will be equally borne by both the parties.

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

12. It is clarified that the reference shall be subject to the petitioner's complying with all the requirements of the agreement including the condition of pre-deposit.

13. Since the main case has been disposed of, pending applications, if any, stand disposed of.

14. Copy of the order be sent to the appointed arbitrator.

**[AVNEESH JHINGAN]
JUDGE**

24th February, 2023

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1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No