

Arbitration Case No. 210 of 2022

[1],

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

Arbitration Case No. 210 of 2022

Date of decision: 5th January, 2023

The Khojkipur Cooperative Labour and Construction Society Ltd.

Petitioner

Versus

Chief Engineer, Government of Punjab, Department of Rural Development
and Panchayats, Chandigarh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Dheeraj Mahajan, Advocate for the petitioner.
Mr. Rajesh Mehta, Additional Advocate General, Punjab.

AVNEESH JHINGAN, J (Oral):

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.

The petitioner was awarded work of construction of six number classrooms in SAS School at village Butala (Girls) Block Rayya. Dispute arose between the parties.

Clause 25 (v) of the agreement is reproduced below:

“v) All disputes or differences in respect of which the decisions is not final and conclusive shall, at the request of either party made in a communicate sent through registered AD post be preferred to the sole arbitration of a Superintending Engineer, Panchayati Raj Circle, Punjab, in-charge of the work, acting as such at the time of reference unless debarred from acting as an arbitrator by an order of

the Punjab Government/Court in which event, the Administrative Secretary, Rural Development and Panchayats or his authorized representative shall appoint any other technical officer not below the rank of Superintending Engineer or any non-technical person that should be an IAS or PCS personal of the State Government having the pay-scale equal to more than the pay-scale of the Superintending Engineer as notified at the time of arbitrations to act as arbitrator on receipt of a request from either party.”

It is not disputed that after amendment of Section 12(5) of the Act, the Superintending Engineer, Panahcyati Raj Circle, Punjab is ineligible for appointment as arbitrator.

The petition is accordingly disposed of by appointing Smt. Sunita Sharma, retired District & Sessions Judge, 103, Krishna Square, near Celebration Mall, Amritsar as the sole arbitrator. The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended or as may be mutually settled by the parties and the Arbitrator.

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.

Copy of the order be sent to the appointed arbitrator.

**[AVNEESH JHINGAN]
JUDGE**

5th January, 2023

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