

Arbitration Case No. 476 of 2021

[1]

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Arbitration Case No. 476 of 2021
Date of decision: 9th January, 2023

M/s Gazi Builders

Petitioner

Versus

State of Punjab and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr.R. K. Girdhar, Advocate for the petitioner.
Mr. Rajesh Mehta, Addl. AG, 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 tender for construction of bridges. As per the terms of general conditions of contract, dispute resolution mechanism was provided in clause 25(v)(a). The same is reproduced below:

“25. DISPUTE REOSOLUTION MECHANISM

(v) All disputes or differences in respect of which the decision is not final and conclusive shall, at the request of either party made in communication sent through registered AD post, be referred for arbitration as per following:

(a) For original contract of the value upto Rs.5.00 crore, the disputes shall be referred to the sole

arbitration of the Superintending Engineer of the concerned circle of Public Works Department, Buildings and Roads Branch acting as such at the time of reference unless debarred from acting as an arbitrator by an order of the Punjab Government, in which event, the Employer shall appoint any other Superintending Engineer of the department to act as an arbitrator on receipt of request from either party.”

Notice dated 28.7.2021 was issued by petitioner for invoking arbitration the present petition is filed.

In reply filed by the respondent, it is not disputed that dispute and differences arose between the parties. Rather it is pleaded that the petitioner had not completed the work.

The petition is accordingly disposed of by appointing Mr. Justice Jaspal Singh, a former Judge of this court, resident of H. No. 506, Lane No. 9 N/1, The Foothills Cooperative Society, Mullanpur, SAS Nagar (Mohali) as the sole arbitrator subject to declaration to be made by him under Section 12 of the Act with regard to his independence and impartiality to settle the dispute between the parties.

The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended. The fee of the arbitrator will be equally borne by both the parties.

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

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**

9th January, 2023
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1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No