



ARB-261-2023(O&M)

-1-

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

**ARB-261-2023(O&M)  
Date of decision:-20.05.2024**

M/s Gandotra Builders

...Petitioner

Versus

The State of Punjab and others

...Respondents

**CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL**

**Present** : Mr.R.K. Girdhar, Advocate  
for the petitioner.

Mr.Brijesh, AAG, Punjab.

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**SUVIR SEHGAL, J.(ORAL)**

**CM-6112-CII-2024**

Application is allowed, as prayed for.

Legal notice dated 01.11.2022 is taken on record as  
Annexure P6.

**ARB-261-2023**

1. By way of instant petition filed under Section 11 read with  
Section 12 of the Arbitration and Conciliation Act, 1996 (for short "the



ARB-261-2023(O&M)

-2-

106+267

Act”), petitioner has approached this Court for appointment of an Arbitrator to adjudicate the dispute between the parties.

2. Counsel for the petitioner submits that work of construction of MSME Building in Mega Food Park at Ladhowal, District Ludhiana was allotted to the petitioner vide letter dated 05.12.2016, Annexure A2, which was completed in December, 2018. He submits that performance guarantee was released to the petitioner on 10.01.2019, but payment of final bill was not made. Counsel submits that the petitioner served a legal notice dated 01.11.2022, Annexure P6, and filed a writ petition before this Court, which was disposed of vide order dated 02.12.2022, Annexure A3, with a direction to the respondents to take a decision on the legal notice by passing a speaking order. He submits that an order dated 01.03.2023, Annexure A4, was passed by the respondents and an amount of Rs.1,08,365/- was released, however, the balance amount was not released. Counsel submits that the petitioner issued notice dated 22.04.2023, Annexure A5, invoking the arbitration clause.

3. Upon notice by this Court reply has been filed by respondents No.1 to 4 contesting the petition. It has been submitted that the claim regarding extra payment was never raised by the petitioner and whatever was due has been disbursed. An objection has been raised by the State counsel that the petition is barred by the doctrine of *res judicata*.

4. I have heard counsel for the parties and considered their respective submissions.

5. Neither the agreement has been disputed nor the arbitration



ARB-261-2023(O&M)

-3-

106+267

clause. Facts show that a dispute has arisen between the parties and part of the claim raised by the petitioner has been accepted. A speaking order, Annexure A4, was passed, whereby some payment has been released to the petitioner. The speaking order has given a fresh cause to the petitioner, who has invoked the jurisdiction of this Court under Section 11 (6) of the Act. The argument by the State that the petition is barred by *res judicata* simply deserves to be noticed and rejected. Insofar as to whether the petitioner is entitled to the release of the amount claimed, is to be determined by the Arbitrator. Prayer made in the petition deserves to be acceded to.

6. In view of the above, petition is allowed. Mr. Justice (Retd.) S.N. Aggarwal, a former Judge of this Court, r/o 1458, Sector 40-B, Chandigarh, M: 09876716983 is requested to act as an Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements.

7. Parties are directed to appear before the learned Arbitrator on the date, time and place to be fixed and communicated by the learned Arbitrator at his convenience.

8. Parties will be at liberty to raise all the pleas/defences before the Arbitrator.

9. Needless to mention that all the questions arising between the parties in this matter will remain open for determination in the arbitration proceedings, and any observation made hereinabove will not be binding on the learned Arbitrator.

10. A request letter be sent to Mr. Justice (Retd.) S.N.



**ARB-261-2023(O&M)**

**-4-**

**106+267**

Aggarwal alongwith a copy of this order.

11. Pending application, if any, stands disposed of.

**(SUVIR SEHGAL)  
JUDGE**

**20.05.2024**

**Brij**

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**