



ARB-9-2024

-1-

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

271

ARB-9-2024

Date of Decision: 28.10.2024

M/s JKA Associates Private Limited

...Applicant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Sarthak Gupta, Advocate for the applicant

Mr. Gurpartap Singh Bhullar, Asst. Advocate General, Punjab
[assisted by Mr. Manoj Kumar Goyal, Clerk, Mansa, O/o XEN,
PWD (B&R)]

JAGMOHAN BANSAL, J. (Oral)

1. Through instant application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short '1996 Act'), the applicant is seeking appointment of an Arbitrator.

2. Pursuant to tender, the applicant was allotted work vide letter dated 07.01.2022 (Annexure P-1) by the respondent. A dispute erupted between the parties. Thereafter, Contract Agreement was signed between the parties. There is an arbitration clause in General Conditions of Contract. The allotment of work, arbitration clause in General Conditions of Contract and service of notice under Section 21 of 1996 Act is not disputed.

3. Reply by way of affidavit of Harpreet Sagar, Executive Engineer, Provincial Division, PWD (B&R Br.), Mansa, filed on behalf of the respondents is taken on record. Registry is directed to tag the same at an appropriate place.



4. Learned State counsel submits that respondent could not acquire the land, thus, there was no question of commencement of work. The applicant was allotted tender subject to acquisition of land. There was deviation from terms and conditions of the contract by the applicant, thus, instant application may be dismissed.

5. The issue raised by the applicant and objection of the respondents cannot be decided by this Court. It is the Arbitral Tribunal which will adjudicate the issues.

6. Faced with this, learned counsel for both sides concede that a sole Arbitrator, instead of three as contemplated by agreement, may be appointed.

7. Conditions to invoke power conferred by Section 11(6) of 1996 Act stand satisfied, thus, I hereby appoint a sole Arbitrator to adjudicate the dispute between the parties.

8. Mr. Justice Satish Kumar Mittal, Former Chief Justice of Rajasthan High Court, residing at House No 1545, Sector 7, Chandigarh, Mobile No. 9780008107 is hereby appointed as a Sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements. The learned Arbitrator is requested to comply with mandate of Section 12 of 1996 Act before proceeding further.

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

10. The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended.

**ARB-9-2024****-3-**

11. The Arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the 1996 Act.

12. Needless to mention, parties would be at liberty to raise all the claims/defences/counter claims/pleas before the Arbitrator. Any observation made hereinabove will not be binding on the learned Arbitrator.

13. A request letter along with copy of this order be sent to Mr. Justice Satish Kumar Mittal, Former Chief Justice of Rajasthan High Court.

(JAGMOHAN BANSAL)
JUDGE

28.10.2024*Mohit Kumar*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No