

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

2024.PHHC.091330



ARB. No. 234 of 2024

Date of Decision:22.07.2024

M/s Santosh Oil Carrier

.... Applicant

vs.

Indian Oil Corporation Limited and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Ms. Perna Malhotra, Advocate for
Mr. Prateek Mahajan, Advocate
for the petitioner
Mr. Ashish Kapoor, Advocate
for the respondents

JAGMOHAN BANSAL, J. (ORAL)

1. The applicant through instant application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short "1996 Act") is seeking appointment of an Arbitrator to adjudicate the dispute relating to Transportation of Bulk Petroleum Product-ATF- Top Loading Ex Location, Jalandhar Terminal.

2. The applicant pursuant to an advertisement floated by respondent-Indian Oil Corporation Limited (for short "respondent-Corporation") applied for Road Transportation of Bulk ATF tender. It was allotted said tender and tenure of the contract was three years commencing w.e.f. 01.07.2021. It could be further extended for two years. The applicant, as per terms and conditions of contract, had to deliver ATF from Jalandhar terminal of respondent-Corporation to Amritsar AFS. The applicant,



during 2021-2023 effected 32 trips. On 12.09.2022, it received delivery of 22 KL from Jalandhar terminal and while it was to be delivered at Amritsar AFS, a shortage of 999 litres took place. The respondent-Corporation on the basis of report of its Inspection terminated the contract and further black-listed tank truck, owner of the vehicle as well as driver of the vehicle. The applicant served notice dated 12.02.2024 upon respondent-Corporation seeking appointment of an Arbitrator. The respondent-Corporation vide letter dated 06.03.2024 intimated the applicant that it may give consent in terms of proviso to Section 12(5) of the 1996 Act. The applicant does not want appointment of an official of respondent-Corporation as an Arbitrator, thus, he has approached this Court.

3. Notice of motion.

4. Mr. Ashish Kapoor, Advocate, who on advance notice is present in Court, accepts notice and waives service.

5. Mr. Kapoor filed reply and the same is taken on record. Registry is directed to tag the same at an appropriate place.

6. With the consent of both sides, the application is taken up for final disposal today itself.

7. Mr. Ashish Kapoor, Advocate submits that applicant has caused loss to respondent-Corporation and Corporation has to recover loss from the applicant. He concedes existence of contract between the parties as well as arbitration clause.

8. I have heard counsel for the parties and perused the record with their able assistance.



9. From the perusal of record and arguments of both sides, it is evident that there is no dispute qua existence of contract between the parties as well as arbitration clause. The applicant and respondent-Corporation are conceding that there is dispute and in terms of arbitration clause in the agreement, it needs to be resolved through Arbitrator.

10. In view of above facts and findings, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed.

11. Sh. T.R.Bansal, Addl. District & Sessions Judge (Retd.), House No. 768, Sector 22-A, Chandigarh Mobile No. 09878622768 is requested to act as an Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements.

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

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

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

15. A copy of this order be sent to Sh. T.R.Bansal, Addl. District & Sessions Judge (Retd.).

22.07.2024
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(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned:	Yes	
Whether reportable:		No