

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Arbitration Case No. 60 of 2014

DATE OF DECISION : MAY 01, 2014

M/s Shiv Naresh Sports Private Limited

..... PETITIONER

VERSUS

State of Haryana

..... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE SANJAY KISHAN KAUL, CHIEF JUSTICE

PRESENT: Mr. Sumit Gupta, Advocate, for the petitioner.
Mr. HS Lalli, Addl. Advocate General, Haryana, for the respondent.

SANJAY KISHAN KAUL, CJ. (Oral)

The petitioner has filed an application under Section 11 of the Arbitration and Conciliation Act, 1996, seeking appointment of an Arbitrator, on account of the failure of the designated authority to appoint an Arbitrator.

The petitioner was allotted the contractual work of construction of 'Providing and laying of International size Synthetic Hockey Surface of Global Category with all addendum at Government Senior Secondary School, Shahabad (Kurukshetra), by a letter dated 17.12.2004. The agreement was executed on 30.12.2004. The Letter of Credit for initiation of the work was issued on 10.2.2005 and the stipulated completion period was of 21 weeks i.e. up to 17.7.2005. The work is alleged to have been completed on 17.2.2006 and taken over by the

respondent on 20.2.2006, after stated to have been found satisfactory. It is the case of the petitioner that completion of work was delayed from the stipulated date of completion, on account of heavy rains and bad weather conditions, but despite this, liquidated damages to the extent of 10% of the contractual value i.e. of ₹ 23.50 lacs, were imposed on the petitioner, vide letter dated 17.3.2006. This gave rise to a dispute inter-se the parties.

The agreement inter-se the parties contained Arbitration Clause 17 and, thus, the petitioner made a request to the designated authority on 16.4.2008 to appoint an Arbitrator. The Superintending Engineer, PWD (B&R), Ambala Circle was appointed as the Sole Arbitrator, at the first instance, who, after first hearing, refused to act on the ground that he remained In-charge of the work under dispute. The second Arbitrator was appointed on 29.11.2012 but he is also stated to have declined to act on 28.6.2013. The petitioner, thus, vide letter dated 27.8.2013, followed by a reminder on 10.1.2014, sought appointment of an Arbitrator from the designated authority but no Arbitrator has been appointed, resulting in filing of the present petition.

No reply has been filed despite opportunity granted on 28.3.2014. It is, thus, a case of no return.

In view of the aforesaid facts and circumstances, I appoint Shri R.P. Bhasin, District and Sessions Judge (Retired), resident of # 538, Sector 7, Panchkula, as Sole Arbitrator to enter upon reference and adjudicate the disputes inter-se the

parties. The parties agree that the arbitration be held under the aegis of the Chandigarh Arbitration Centre and the rules of the Centre will govern all matters, including fee and expenses.

The petition, accordingly, stands allowed, leaving the parties to bear their own costs.

A copy of the order be sent to the Chandigarh Arbitration Centre as well as Arbitrator.

MAY 01, 2014
Kang

(SANJAY KISHAN KAUL)
CHIEF JUSTICE