

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDI GARH

ARB-149-2016 (O&M)
Date of decision: - 23.09.2016

KCC Buildcon Pvt. Ltd.

... Petitioner

Versus

Haryana State Roads & Bridges Development Corporation
Ltd. and others

... Respondents

CORAM: HON'BLE MR. JUSTICE S. J. VAZIFDAR, CHIEF JUSTICE

Present: - Mr. Rajesh Goyal, Advocate,
for the petitioner.

Mr. Deepak Balyan, Addl. Advocate General, Haryana.

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S. J. VAZIFDAR, C. J. (ORAL)

This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 for the appointment of an arbitrator on behalf of the respondents.

2. The petitioner had earlier filed ARB-202-2015 which I disposed of by my order and judgement dated 05.02.2016. I observed that to the petitioner's notice invoking arbitration, the respondents agreed to refer the further disputes and differences to arbitration provided the petitioner fulfilled its obligation of depositing a claim fee of 2% of the claim amount. The petitioner, however, had not done so even on 05.02.2016. I, therefore, disposed of the petition by directing the Engineer-in-Chief to appoint an arbitrator on behalf of the respondents in accordance with the arbitration clause. I, however, directed that the time to appoint the arbitrator would exclude the time upto which the claim fee of 2% of the claim amount was deposited.

3. The petitioner under cover of a letter dated 29.02.2016 deposited a sum of ₹ 5,80,600/- being 2% of the claim and expressly called upon the respondents to nominate an arbitrator. It is also pertinent to note that this letter referred to the said ARB-202-2015 and the said order dated 05.02.2016.

4. Despite the same, the respondents purported to appoint an arbitrator only on 13.07.2016. However, this petition was filed only on 18.07.2016. The appointment, therefore, though after the period of 30 days, was before this petition was filed. It cannot, therefore, be said that the respondents have forfeited their right to nominate an arbitrator.

5. The petition is, therefore, disposed of.

6. It is for the two arbitrators to appoint the Presiding Arbitrator.

(S. J. VAZIFDAR)
CHIEF JUSTICE

23.09.2016

Amodh

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