

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

223-B

ARB-207-2021

Date of Decision: 15.05.2023

Sukhmani Engineers Nimakh Enclave, Sirhind Road, Patiala

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present:- Mr. Amit Kumar Gupta, Advocate for the petitioner.

Mr. Charanpreet Singh, Assistant Advocate General, Punjab.

AVNEESH JHINGAN, J. (Oral)

1. This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') for appointment of an arbitrator for adjudication of disputes between the parties.
2. The petitioner was allotted tender for cutting and dismantling roads and their foundations up to 150 mm thickness including stacking of serviceable material within a lead of 30 meter and restoration of the same. Clause 25 of the general terms and conditions provided for pre-arbitration mechanism and dispute resolution through arbitration.
3. On failure of an attempt for pre-arbitration, the petitioner issued a notice for appointment of an arbitrator. Superintending Engineer was appointed as an arbitrator. He failed to conclude the proceedings in spite of his appointment in the year 2012. It would be worthwhile to note that after superannuation, the other Superintending Engineer became the arbitrator.
4. Learned counsel for the respondents submits that liberty be

granted to raise all the issues in arbitration proceedings.

5. Learned counsels for the parties have agreed that in view of 2015 amendment to the Act, an independent arbitrator be appointed.

6. The petition is accordingly disposed of by appointing Mr. Justice Satish Kumar Mittal, former Chief Justice of Rajasthan High Court, H. No.1545, Sector 7-C, Chandigarh as the sole arbitrator. The arbitrator is appointed subject to declaration to be made by him under Section 12 of the Act with regard to his independence and impartiality to settle the dispute between the parties.

7. As there is no seat mentioned in the agreement, the arbitrator before proceeding further shall determine place of arbitration as per Section 20(2) of the Act.

8. The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended. The arbitrator is requested to complete the proceedings as per time limit specified under Section 29A of the Act. It is clarified that the reference shall be subject to the petitioner's complying with all the requirements of the agreement.

9. Needless to say that respondents will be at liberty to raise all the issues in arbitration proceedings.

10. Copy of the order be sent to the appointed arbitrator.

May 15, 2023
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No