

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

ARB No. 278 of 2020(O&M)
Date of Decision:12.02.2021

M/S PEREGRINE GUARDING PVT LTDPetitioner

Versus

M/S ORIENT CRAFT LTD Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Saurabh Sharma, Advocate
for the petitioner.

Mr. Vineet Sehgal, Advocate
for the respondent.

LISA GILL, J(Oral).

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Present is a petition under Section 11 (5) of the Arbitration & Conciliation Act, 1996 (for short 'Act'), for appointment of a Sole Arbitrator to decide the dispute/claim of the petition.

An agreement was executed between the petitioner and respondent, whereby petitioner was obligated to provide round the clock security arrangements to the respondent and its factory situated at Plot No. A809-820, RIICO Industrial Area, Chopanki Ext. Pathredi Bhiwadi-301707, District Alwar, Rajasthan. As per clause 21 of the agreement, if any, dispute is not settled amicably, the same shall be referred to the sole arbitrator. Clause 21 reads as under :-

“This agreement shall be deemed to have been made/executed at Gurgaon for all purposes. In the event of any dispute related to the interpretation or rights or liabilities arising out of this Agreement, the same shall, at first instance, be amicably settled between the parties. If any dispute is not settled amicably, the same shall be referred to the Sole Arbitrator to be appointed by

the Management of the First Party. The award given by the Arbitrator shall be final and binding on the parties. The venue for Arbitration shall be at Gurgaon.”

Dispute has admittedly arisen between the parties. Through legal notice dated 07.11.2020, the applicant invoked the arbitration clause. Petitioner’s proposed arbitrator was not acceptable to the respondent and it unilaterally appointed someone else as the Sole Arbitrator. It is submitted by learned counsel for the petitioner that unilateral appointment of arbitrator by the respondent is violative of the amended provision of the Act. Reference is also made to decisions of the Hon’ble Supreme Court in **TRF Ltd., Vs. Energo Engineering Projects Ltd, 2018(5) R.C.R (Civil) 10** and **Perkins Eastman Architects DPC and another Vs. HSCC (India) Limited 2020 AIR(SC) 59**.

Learned counsel for the respondent is unable to deny that the unsustainability of appointment of Arbitrator unilaterally by the management.

Keeping in view the facts and circumstances, Mr. C.B.Jaglan, District & Sessions Judge, (Retired), is appointed as the Sole Arbitrator. However, such appointment would be subject to the declaration to be made by the Arbitrator under Section 12 of the Act with regard to his independence and impartiality to settle the disputes between the parties.

The Arbitrator is to complete the proceedings within the time limit specified under Section 29-A of the Act.

The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended to be borne equally by the parties.

Venue of the Arbitration shall be at Gurgaon or at any other place convenient to all concerned.

Parties to appear before the Sole Arbitrator on such date and

time as nominated by him. Proceedings may also be conducted through video conferencing subject to consensus among all.

Petition is accordingly disposed of.

12.02.2021
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.