
(2013) 08 P&H CK 0722

In the Punjab And Haryana At Chandigarh

Case No : Arbitration Case No. 69 of 2013 (O and M)

M/s. B.M. and Sons

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 02-08-2013

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 11

Citation : (2013) 08 P&H CK 0722

Hon'ble Judges : Sanjay Kishan Kaul, C.J

Bench : Single Bench

Advocate : Vikas P. Singh and Mr. Sanjay Bhomik, for the Appellant; Karminder Singh, for the Respondent

Final Decision : Allowed

Judgement

Sanjay Kishan Kaul, C.J.

CM No. 16168 of 2013

1. Leave to place on record reply/counter affidavit on behalf of the respondents is granted and application is allowed.

Arbitration Case No. 69 of 2013

The petitioner as proprietorship concern of Shri Mukesh Sharma is engaged in the business of civil work. The parties entered into an agreement dated 22.03.2006 for construction of Regional Labour Institute at Sector 47, Faridabad which agreement contains an arbitration clause No. 25. The disputes have arisen qua the amount to be paid under the contract.

The petitioner made repeated requests invoking the arbitration clause but the respondents denied their liability and further did not appoint the Arbitrator. Finally, a revocation letter dated 07.06.2012 was written by the petitioner to the respondents to which also there is no response.

2. The designated authority of the respondents being Chief Engineer, however, appointed an Arbitrator only on 23.07.2013 much after filing of the present petition and notice being issued to the respondents and the same being duly served. This appointment is not acceptable to the petitioner who seeks appointment of an independent Arbitrator.

3. It is trite to say that the designated authority has lost the right to appoint the Arbitrator in terms of arbitration clause in view of judgments of the Hon''ble Supreme Court in case Deep Trading Company Vs. Indian Oil Corporation and Others, Datar Switchgears Ltd. Vs. Tata Finance Ltd. and Another, and Bharat Sanchar Nigam Ltd. and Another Vs. Motorola India Pvt. Ltd., , as he did not appoint the Arbitrator either within 30 days after invocation of the arbitration clause or till the date of filing of the petition u/s 11 of the Arbitration & Conciliation Act, 1996 and infact sought to contest the petition on-merits by filing reply. In view of above undisputed position, it is agreed that Justice I.P. Vasisth, a retired Judge of this Court, resident of House No. 385, Sector 16-A, Faridabad, be appointed as sole Arbitrator to enter upon the reference and adjudicate the disputes inter-se the parties.

Ordered accordingly. Petition stands allowed leaving the parties to bear their own costs.

The fee of the Arbitrator be governed by the High Court Rules.

A copy of the order be sent to the Arbitrator.