
(2021) 12 DEL CK 0035

In the Delhi High Court

Case No : Arbitration Petition No. 1053 Of 2021

M/S M P Tyagi Engineers And Contractors

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 07-12-2021

Acts Referred:

Arbitration And Conciliation Act, 1996 — Section 11(6), 12

Citation : (2021) 12 DEL CK 0035

Hon'ble Judges : Suresh Kumar Kait, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Suresh Kumar Kait, J

1. The present petition has been filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 seeking appointment of sole Arbitrator in terms of Arbitration Clause 70 of IAFW 2249 forming the part of contract entered between the parties.

2. Petitioner herein is a contractor, who claims to have been engaged by the respondents, respondent No.1- Union of India and respondent No.2,3 & 4 subordinates of respondent No.1, on several occasions for carrying out various constructions and other activities.

3. The basis of present petition rests upon Arbitration Clause 70 of IAFW 2249 forming the part of contract entered between the Parties, which was entered into pertaining to a work order bearing No. CEWAC/GUR/26/20 17-18 to the tune of sum of Rs 3,02,26,089.80/-pursuant to acceptance letter dated 21.09.2017 against a tender for the work CA NO. CEWAC/GUR/T-52/2017-IS:ADDN ALTN TO SMQ OF SAFED NAGAR AREA PH I AT VSV GURGAON published on 27.07.2017.

4. It is averred in the present petition that as per the Work Order issued on 05.10.2017 by the respondent No.4, date of handing over of the site for the

execution of the contract work was 16.10.2017 and date of completion of the contract work was 15.01.2019.

5. Learned counsel for petitioner submits that the petitioner on 26.10.2017, issued letter seeking approval of samples of various items from the Respondent / GE (I)(AF)MES GURGAON-122001 and vide letter dated 29.10.2017, submitted names of four supervisors along with tokens for personnel, for execution of the work at site. Furthermore, sample approval for certain more items was also requested on the same date vide letter dated 29.10.2017. According to petitioner, the work was successfully completed at site in all three phases. The completion letter for the work being completed at site was issued vide letter dated 01.10.2018, 03.03.2019 & 12.03.2020.

Thereafter, certain disputes arose between the parties.

6. According to petitioner, notice dated 05.09.2020 was sent to the respondents seeking appointment of Arbitrator under condition 70 of IAFW 2249 for adjudication of disputes under the contract Agreement, which was replied to vide letter dated 07.09.2021 seeking further action. However, respondents failed to appoint Sole Arbitrator as per the Arbitration Clause. Therefore, the present petition has been filed.

7. Learned counsel for petitioner submits that Sole Arbitrator may be appointed to adjudicate the dispute between the parties.

8. Learned counsel appearing on behalf of respondents submits that he has no objection if sole Arbitrator is appointed for adjudication of dispute between the parties, however, has brought attention of this Court to a Notice dated 30.11.2021 issued by the respondent to petitioner herein, nominating names of three Arbitrators, as suggested by the department.

9. During the course of hearing, counsel appearing both the sides have consented upon the name of Mr. R.P. Singhal, ADG being appointed as Arbitrator in this case.

10. Accordingly, the present petition is allowed and Mr. R.P. Singhal, ADG (Arbitration) (as suggested by respondents) is appointed sole Arbitrator to adjudicate the dispute between the parties in terms of Arbitration Clause 70 of IAFW 2249 forming the part of contract entered between the parties.

11. Since the aforementioned Arbitrator has been appointed with the consent of the parties, therefore, compliance under Section 12 of Arbitration and Conciliation Act, 1996 is dispensed with.

12. The present petition stands disposed of accordingly.

13. A copy of this order be sent to the learned Arbitrator for information.