

(2012) 07 SHI CK 0093
In the High Court Of Himachal Pradesh
Case No : Arbitration Case No. 25 of 2012

Sh. Parmod Sood

APPELLANT

Vs

The Managing Director, H.P. State Agriculture, Marketing Board, Khalini, Shimla-171002 and The Executive Engineer, H.P. State Agriculture Marketing Board, Khalini, Shimla-171002

RESPONDENT

Date of Decision : 25-07-2012

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 11(6), 7

Citation : (2012) 07 SHI CK 0093

Hon'ble Judges : Surinder Singh, J

Bench : Single Bench

Advocate : T.R. Sharma, for the Appellant; Sanjeev Sharma, for the Respondent

Judgement

Surinder Singh, J.—The present petition has been preferred u/s 11(6) of Arbitration and Conciliation Act, 1996, hereinafter referred to be as "the Act", for the appointment of an Arbitrator. The Hon"ble the Chief Justice has assigned this matter to this Court for its disposal in accordance with law. The petitioner is registered A-class contractor with the Public Works Department of the State, and is running the Firm in the name of "M/s P.K. Construction Company". It is stated that during the course of his business dealing, he was awarded work of construction of regulated sub-yard at KharaPathar, District Shimla, H.P. (SH: auction platform and shops etc.) The parties entered into an arbitration agreement vide Arbitration No. 853 of 2009.

2. Clause 25 of the said agreement provides for the settlement of disputes by arbitration and it also provides for the appointment of a sole Arbitrator by Engineer-in-Chief or the Chief Engineer.

3. Since the petitioner has raised arbitration dispute as mentioned in para-6 of this petition, with the respondents, therefore, the petitioner served a legal notice dated 5.10.2011, for appointing an Arbitrator within 30 days, but it turned deaf

ears, hence the present petition, giving a brief statement of the case describing its general nature as well as dispute inter se. The issue involves the approximate value of the dispute, in broad terms and the date when the cause of action accrued to file application, the material facts/ particulars requisite for obtaining the relief(s), the petition is duly supported by all the relevant documents to this effect including a copy of arbitration agreement, award letter, copy of the notice served upon first respondent and the statement of the claims etc.

4. Notice of this petition was given to the respondents. They have no objection in appointing an Arbitrator to adjudicate for the claim of the parties.

5. The matter has been considered and I am satisfied that the present petition satisfies the conditions laid down u/s 11(6) of the Act for the exercise of the powers. The Court has also jurisdiction to entertain the request. The agreement aforesaid is valid in terms of Section 7 of the Act. The claim of the petitioner prima-facie is neither time barred nor a dead claim. The matter is of a technical nature and involves civil engineering work, therefore, considering the request aforesaid, I hereby appoint Shri Amar Singh Chauhan, Chief Engineer (Retired), presently resident of Amar Villa, Near Shanti Kuteer, Chakker, Shimla, as a sole Arbitrator to adjudicate upon the claim(s) of the parties, for which none of them have any objection.

6. Let a copy of this order be sent to the Arbitrator aforesaid. Registry to take appropriate steps.

7. The parties shall be present on the date to be communicated by the sole Arbitrator aforesaid before him on the receipt of the present reference and the parties shall file their respective claims.

8. The Arbitrator is at liberty to charge the reasonable fee and secretarial expenses as per norms to be borne by the parties in equal proportion. The Arbitrator shall conclude the proceedings before him as far as possible within four months from the date of receipt of the claims by the parties. The petition stands disposed of.