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

**ARB-260-2025 (O&M)
Date of Decision:04.12.2025**

All India Society for Electronics and Computer Technology (AISECT)

.....Petitioner

Versus

Haryana State Rural Livelihoods Mission (HSRLM) and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Harneesh Kumar, Advocate for
Mr. G.S. Sullar, Advocate for the petitioner.

Mr. Baldev Raj Mahajan, Sr. Advocate with
Mr. Arvind Seth, Advocate and
Ms. Nikita Goel, Advocate for respondent No.1.

Mr. Narender Kumar Vashist, Senior Panel Counsel
for Union of India-respondents No.2 and 3.

JASGURPREET SINGH PURI J.(Oral)

1. The present is a petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act'), seeking appointment of a sole arbitrator in the present case.

2. Learned counsel appearing on behalf of the petitioner submitted that there was a valid agreement between the petitioner and the respondents (Annexure P-1), wherein there exist an arbitration clause for referring the matter to an Arbitrator. In this regard, he referred to Clause 8 of the aforesaid agreement to contend that considering the aforesaid arbitration clause, the present petition has been filed under Section 11 of the Act for appointment of an independent arbitrator. He submitted that since a dispute arose between the parties, the petitioner served a legal notice to the respondents (Annexure P-40)



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but no response was received to the same and therefore, the present petition has been filed for appointment of an independent arbitrator.

3. On the other hand, learned Senior counsel appearing on behalf of respondent No.1 submitted that the present petition is not maintainable in view of the fact that there does not exist any arbitration clause at all. In this regard, he also referred to the aforesaid Clause 8 to contend that a substantive portion of the aforesaid clause would show that there is no intention of the parties to refer the matter to the arbitration in case any dispute arises, although the heading of the aforesaid clause is "**Arbitration and Applicable Laws**". He submitted that it is a settled law that the provisions of Section 11 of the Act can only be invoked when there exists an arbitration clause. Whereas in the present case although the agreement between the parties is admitted but there is no arbitration clause and therefore, the present petition is liable to be dismissed. In this regard, he referred to a judgment passed by a Coordinate Bench of this Court in *M/s Surya Wires Pvt. Ltd. vs. Haryana State Rural Livelihood Mission*, bearing ARB case No.283 of 2021, decided on 31.01.2024 in which the aforesaid respondent-Haryana State Rural Livelihood Mission and the respondent in the present case are the same and the clause which was sought to be invoked in that case is also similar in nature. He submitted that a Coordinate Bench of this Court, after referring to various judgments of Hon'ble Supreme Court came to the conclusion that the clause was not in the nature of an arbitration clause and therefore the present petition is also liable to be dismissed because there is no arbitration clause in the agreement.

4. I have heard the learned counsels for the parties.

5. Before proceeding further the aforementioned Clause No.8 on the basis of which the present petition has been filed, is required to be reproduced below:-

"8. Arbitration and Applicable Laws-



8.1. The parties hereby agree that any controversy, claim or dispute arising in connection with this MOU, and which cannot be resolved amicably shall be referred to the Empowered Committee for Aajeevika Skills in the Ministry of Rural Development, Government of India, whose decision shall be final and binding on all parties.”

6. A perusal of the aforesaid clause would show that although the heading of Clause No.8 is “**Arbitration and Applicable Laws,**” but neither the substantive part of the clause itself conveys any kind of intention of the parties to refer the matter to arbitration nor anything has been referred which shows intention of the parties to arbitrate. It only states that the parties agree that in case a dispute arises then the same will be resolved amicably by referring to the Empowered Committee for Aajeevika Skills in the Ministry of Rural Development, Government of India and whose decision will be final and binding on all the parties. In other words, although the heading of the aforesaid clause is “**Arbitration and Applicable Laws,**” the substantive portion of the clause contains no expression of intention on the part of the parties to refer any dispute to arbitration.

7. Hon’ble Supreme Court in ***K.K. Modi v. K.N. Modi (1998) 3 SCC 573*** laid down the relevant factors to determine the existence of an arbitration agreement. The relevant portion of the said judgment is reproduced as under:-

17. Among the attributes which must be present for an agreement to be considered as an arbitration agreement are:
(1) The arbitration agreement must contemplate that the decision of the tribunal will be binding on the parties to the agreement;
(2) that the jurisdiction of the tribunal to decide the rights of parties must derive either from the consent of the parties or



from an order of the court or from a statute, the terms of which make it clear that the process is to be an arbitration;
(3) the agreement must contemplate that substantive rights of parties will be determined by the agreed tribunal'
(4) that the tribunal will determine the rights of the parties in an impartial and judicial manner with the tribunal owing an equal obligation of fairness towards both sides
(5) that the agreement of the parties to refer their disputes to the decision of the tribunal must be intended to be enforceable in law and lastly;
(6) the agreement must contemplate that the tribunal will make a decision upon a dispute which is already formulated at the time when a reference is made to the tribunal."

8. Thereafter Hon'ble Supreme Court in **Jagdish Chander v. Ramesh Chander & Ors., (2007) 5 SCC 719**, had an occasion to deal with this very position and the relevant portion is reproduced as under:

"8. This Court had occasion to refer to the attributes or essential elements of an arbitration agreement in K.K. Modi v. K.N. Modi [(1998) 3 SCC 573] , Bharat Bhushan Bansal v. U.P. Small Industries Corpn. Ltd. [(1999) 2 SCC 166] and Bihar State Mineral Development Corpn. v. Encon Builders (I) (P) Ltd. [(2003) 7 SCC 418] In State of Orissa v. Damodar Das [(1996) 2 SCC 216] this Court held that a clause in a contract can be construed as an "arbitration agreement" only if an agreement to refer disputes or differences to arbitration is expressly or impliedly spelt out from the clause. We may at this juncture set out the well-settled principles in regard to what constitutes an arbitration agreement:

(i) The intention of the parties to enter into an arbitration agreement shall have to be gathered from the



terms of the agreement. If the terms of the agreement clearly indicate an intention on the part of the parties to the agreement to refer their disputes to a private tribunal for adjudication and a willingness to be bound by the decision of such tribunal on such disputes, it is arbitration agreement. While there is no specific form of an arbitration agreement, the words used should disclose a determination and obligation to go to arbitration and not merely contemplate the possibility of going for arbitration. Where there is merely a possibility of the parties agreeing to arbitration in future, as contrasted from an obligation to refer disputes to arbitration, there is no valid and binding arbitration agreement.

(ii) Even if the words “arbitration” and “Arbitral Tribunal (or arbitrator)” are not used with reference to the process of settlement or with reference to the private tribunal which has to adjudicate upon the disputes, in a clause relating to settlement of disputes, it does not detract from the clause being an arbitration agreement if it has the attributes or elements of an arbitration agreement. They are: (a) The agreement should be in writing. (b) The parties should have agreed to refer any disputes (present or future) between them to the decision of a private tribunal. (c) The private tribunal should be empowered to adjudicate upon the disputes in an impartial manner, giving due opportunity to the parties to put forth their case before it. (d) The parties should have



agreed that the decision of the private tribunal in respect of the disputes will be binding on them.

(iii) Where the clause provides that in the event of disputes arising between the parties, the disputes shall be referred to arbitration, it is an arbitration agreement. Where there is a specific and direct expression of intent to have the disputes settled by arbitration, it is not necessary to set out the attributes of an arbitration agreement to make it an arbitration agreement. But where the clause relating to settlement of disputes, contains words which specifically exclude any of the attributes of an arbitration agreement or contains anything that detracts from an arbitration agreement, it will not be an arbitration agreement. For example, where an agreement requires or permits an authority to decide a claim or dispute without hearing, or requires the authority to act in the interests of only one of the parties, or provides that the decision of the authority will not be final and binding on the parties, or that if either party is not satisfied with the decision of the authority, he may file a civil suit seeking relief, it cannot be termed as an arbitration agreement.

(iv) But mere use of the word “arbitration” or “arbitrator” in a clause will not make it an arbitration agreement, if it requires or contemplates a further or fresh consent of the parties for reference to arbitration. For example, use of words such as “parties can, if they so desire,



refer their disputes to arbitration” or “in the event of any dispute, the parties may also agree to refer the same to arbitration” or “if any disputes arise between the parties, they should consider settlement by arbitration” in a clause relating to settlement of disputes, indicate that the clause is not intended to be an arbitration agreement. Similarly, a clause which states that “if the parties so decide, the disputes shall be referred to arbitration” or “any disputes between parties, if they so agree, shall be referred to arbitration” is not an arbitration agreement. Such clauses merely indicate a desire or hope to have the disputes settled by arbitration, or a tentative arrangement to explore arbitration as a mode of settlement if and when a dispute arises. Such clauses require the parties to arrive at a further agreement to go to arbitration, as and when the disputes arise. Any agreement or clause in an agreement requiring or contemplating a further consent or consensus before a reference to arbitration, is not an arbitration agreement, but an agreement to enter into an arbitration agreement in future”.

9. Furthermore, Hon’ble Supreme Court in **Mahanadi Coalfields Ltd. and Anr. v. M/s IVRCL AMR Joint Venture, (2022) 20 SCC 636** observed that the clause of that case had the title of “**Settlement of Disputes/Arbitration,**” but the substantive part of the provision made it abundantly clear that no arbitration agreement between the parties was in



existence and therefore, the matter could not have been referred to arbitration.

The relevant clause therein reads as under:-

15. Settlement of Disputes/Arbitration:

15.1. It is incumbent upon the contractor to avoid litigation and disputes during the course of execution. However, if such disputes take place between the contractor and the department, effort shall be made first to settle the disputes at the company level. The contractor should make request in writing to the Engineer-in-Charge for settlement of such disputes/claims within 30 (thirty) days of arising of the case of dispute/claim failing which no disputes/claims of the contractor shall be entertained by the company.

15.2. If differences still persist, the settlement of the dispute with government agencies shall be dealt with as per the Guidelines issued by the Ministry of Finance, Government of India in this regard. In case of parties other than government agencies, the redressal of the disputes may be sought in the court of law.”

Hon’ble Supreme Court in that case held that the mere use of the word “Arbitration” in the title of the clause without any corresponding substantive part relating to arbitration could not be considered a valid arbitration agreement under Section 7 of the A&C Act.

10. Hon’ble Supreme Court in a recent judgment in **M/s Alchemist Hospitals Ltd. V. M/s ICT Health Technology Services India Pvt. Ltd. (SLP (Civil) NO.19647-2024)** decided on 06.11.2025, while referring to all the aforesaid judgments, held that mere use of word arbitration is not sufficient to treat the clause as an arbitration agreement when the corresponding mandatory intent to refer the disputes to arbitration and the consequent intent to be bound by the decision of the arbitral tribunal is missing.



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11. A careful perusal of the above-mentioned judgments of Hon'ble Supreme Court and a judgment of Coordinate Bench of this Court in **M/s Surya Wires Pvt. Ltd. (supra)** makes it clear that for a clause to qualify as an arbitration agreement, it is not sufficient to merely use the word "arbitration" in the heading. The substantive part of the clause must demonstrate a clear and mandatory intention to submit disputes to arbitration and to be bound by the decision of the arbitral tribunal. Applying these principles to the present Clause 8, while the heading refers to "**Arbitration and Applicable Laws,**" the substantive portion only provides for resolution by the Empowered Committee for Aajeevika Skills, whose decision is final and binding. The clause, therefore, does not satisfy the essential elements of an arbitration agreement.

12. After hearing learned counsels for the parties and in view of the law laid down by the Hon'ble Supreme Court in the abovementioned cases, this Court is of the view that Clause 8, on the basis of which the present petition has been filed, does not convey any intention to refer the matter to arbitration, nor has it been so stated in the substantive portion of the aforesaid clause. The reliance placed by learned counsel for the petitioner only on the heading "**Arbitration and Applicable Laws**" is not sufficient to suggest that the intention of the parties was to send the case for arbitration in case a dispute arises

13. Consequently, finding no merit in the present case and the same is hereby dismissed.

04.12.2025

shweta

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No