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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

ARB-611-2025 (O&M)

Date of Decision: 10.02.2026

NIRMAL BHARDWAJ CONTRACTOR

....Petitioner(s)

Versus

THE EXECUTIVE ENGINEER AND OTHERS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Rajveer Singh, Advocate,
for the petitioner.

Mr. Rajiv Malhotra, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act'), praying for appointment of an independent Arbitrator to adjudicate the disputes and differences which have arisen between the parties pertaining to an agreement entered into between the parties.

2. Learned counsel appearing on behalf of the petitioner submitted that there was an agreement between the petitioner and the respondents vide Annexure P-1, which is a tender document vide which the tender was allotted to the petitioner and by way of conditions of contract which are also annexed as Annexure P-2, there is a valid arbitration clause i.e. Clause 24 pertaining to the Dispute Redressal System. He submitted that as per Clause



24.1, it has been provided that in case of contract of value lesser than Rs. 2 crores, the agency will make an appeal to the Appellate Authority i.e. concerned Superintending Engineer, who will decide the issue within 90 days and in case of dissatisfaction on the part of the contractor, he can go to Court after the decision of the appeal or after 90 days in case of no decision from the Appellate Authority. Furthermore, as per Clause 24.2, in case of contract of value more than Rs.2 crores and less than Rs. 10 crores, the agency will make an appeal to the Appellate Authority i.e. concerned Superintending Engineer who will decide the issue within 90 days. If the contractor is not satisfied with the Appeal, he can go for Arbitration. Adjudication of the dispute shall be done by a Sole Arbitrator to be appointed by the Government from the list of Arbitrators approved by the Government He submitted that in the present case, the contract value was more than Rs. 2 crores and in this regard, he referred to the tender document (Annexure P-1), which is dated 18.10.2018, in which the total value of the contract is depicted as Rs. 157.97 Lacs (Rs. 1.57 crores) and submitted that this was the initial contract value but thereafter, it has been enhanced and it has also been sanctioned by the competent authority and contract value has been enhanced upto Rs. 3 crores, regarding which he also referred to documents which are also attached with the paper-book from page 113 onwards to contend that even the estimated costs as per the respondents was Rs.2,00,18,000/- and since it exceeds the aforesaid threshold of Rs. 2 crores, the arbitration clause contained in Clause 24.2 will apply and not Clause 24.1. He also submitted that when a dispute arose between the parties, a legal notice was served upon the respondents vide Annexure P-7 by invoking the arbitration clause but no action was taken by the



respondents and therefore, the present application has been filed under Section 11 of the Act for the appointment of an independent Sole Arbitrator.

3. On the other hand, Mr. Rajiv Malhotra, learned Deputy Advocate General, Haryana submitted that the present petition is liable to be dismissed in view of the fact that with regard to the subject matter of the present petition, there is no provision for arbitration or appointment of any Arbitrator. He also referred to the aforesaid two clauses i.e. Clause 24.1 and Clause 24.2 in this regard and submitted that it is clearly provided that in case the contract value is less than Rs. 2 crores, then the dispute will go to the Court after the decision of the Appellate Authority i.e. Superintending Engineer and there is no provision for appointment of an Arbitrator and it is expressly provided in Clause 24.2 that if the contract value is more than Rs.2 crores and less than Rs. 10 crores, only then the matter will be referred to the learned Arbitrator if the contractor is not satisfied with the appeal and in the present case, Annexure P-1 which is a tender document dated 18.10.2018 clearly shows that the contract value is less than Rs. 2 crores i.e. Rs. 1.57 crores approximately and since the contract value is less than Rs. 2 crores, the matter cannot be referred to an Arbitrator because Clause 24.2 will not apply to the present case and the remedy available with the petitioner is to file an appropriate suit before appropriate Courts in accordance with Clause 24.1.

4. Learned State counsel has also referred to the document which was relied upon by the learned counsel for the petitioner, which is stated to be the sanction order of the competent authority. He referred to page No.118 of the paper-book, which is a letter from the Principal Secretary to Government of Haryana to the Executive Engineer, Panchayati Raj, Jhajjar



with regard to the release of funds for construction of Block Building at Badli, wherein it was provided that the Governor of Haryana is pleased to accord the sanction for release of Rs. 40 lacs for construction of the Block Building at Badli at an estimated expenditure of Rs. 2,00,18,000/-. He submitted that the aforesaid letter is dated 11.06.2018, which is much prior to the tender which was allotted in the name of the petitioner, which is dated 18.10.2018 i.e Annexure P-1 and submitted that when the tender itself has been allotted to the petitioner on 18.10.2018 with a clear-cut contract value which is stated to be the estimated cost of Rs. 1.57 crores approximately, then it is clear from the fact of it that the aforesaid letter which was relied upon by the learned counsel for the petitioner is a different letter pertaining to some different work.

5. Learned State counsel further submitted that in this way, the aforesaid letter which was shown by the learned counsel for the petitioner with regard to the estimated costs is not applicable to the present case and even assuming that the costs had enhanced to more than Rs. 2 crores during the pendency of the contract that would not change the terms and conditions of the contract because as per the terms and conditions of the contract, the contract value has to be more than Rs. 2 crores and therefore, on this ground, the present petition is liable to be dismissed because the case of the petitioner is not covered by the arbitration clause. He further referred to the aforesaid letter at page No.118 and submitted that even otherwise also, it clearly states that the sanction was only for the release of Rs. 40 lacs and in this way, the estimated expenditure after the sanction may have enhanced upto more than Rs. 2 crores but at the time of the grant of the tender, the value was only Rs. 1.57 crores approximately. He also referred to a



judgment passed by this Court in Arbitration case No.726 of 2025 on identical facts wherein during the pendency of the contract, the contract value had increased but the initial contract value was less than Rs. 2 crores and therefore, this Court had dismissed the petition in the aforesaid judgment and the present case is squarely covered by the aforesaid judgment.

6. I have heard the learned counsel for the parties.

7. Vide Annexure P-1, a tender document has been attached in the present petition containing conditions of contract, which are also attached as Annexure P-2. As per Clause 24, dispute redressal system has been prescribed. Clause 24.1 and 24.2 are reproduced as under:-

“24. Dispute Redressal System

24.1 In case of contract(s) of value lesser than Rs.2 cr., the agency will make an appeal to the Appellant Authority i.e. concerned Superintending Engineer who will decide the issue within 90 days. In case of dissatisfaction on the part of the contractor, he can go to Court after the decision of this appeal or after 90 days in case of no decision from the Appellant Authority.

24.2 In case of contract(s) of value more than Rs.2.00 cr. and less than Rs.10.00 cr., the agency will make an appeal to the Appellant Authority i.e. concerned Superintending Engineer who will decide the issue within 90 days. If the contractor is not satisfied with the Appeal, he can go for Arbitration. Adjudication of the dispute shall be done by Sole Arbitrator to be appointed by the Govt. from the list of Arbitrators approved by the Govt.”



8. A perusal of the aforesaid would show that when the contract value is less than Rs.2 crores, then it is so specifically provided that in case of dissatisfaction on the part of the Contractor, he can go to the Court. However, in case the contract value is more than Rs.2 crores, then under Clause 24.2, there is a provision for referring the matter to the Sole Arbitrator. In this way, where the contract value is less than Rs.2 crores, there is no provision for appointment of an Arbitrator at all.

9. It was the argument of the learned counsel for the petitioner that although the initial contract was of less than Rs.2 crores i.e. approximately Rs.1.57 crores as per Annexure P-1, but thereafter, it has been enhanced and it has also been sanctioned by the competent authority and contract value has been enhanced upto Rs. 3 crores. Learned counsel referred to some documents in this regard which have been annexed along with the present petition from page No.113 onwards to show the calculations which took place during the period of implementation of the contract. At page No.118 the learned counsel for the petitioner referred to a letter issued by the Principal Secretary to the Government of Haryana to the Executive Engineer, Panchayati Raj to the effect that the Governor of Haryana has accorded sanction for release of Rs.40 lakhs for construction of Block Office Building, Badli (Jhajjar) at an estimated expenditure of Rs.2,00,18,000/- and therefore, since it is more than Rs.2 crores, Clause 24.2 will apply. However, on the other hand, it is the argument of the learned State counsel that the aforesaid letter is dated 11.06.2018, which is much prior to the date of the award of the tender, which is dated 18.10.2018 which clearly shows that the contract value is Rs.1.57 crores and therefore, the aforesaid sanction, if at all, of more than Rs.2 crores would not be applicable to the tender awarded



to the petitioner and probably it would be pertaining to some other contract because the petitioner is a regular Contractor.

10. So far as the reliance placed by the learned counsel for the petitioner on the aforesaid letter dated 11.06.2018 is concerned, two aspects are required to be considered. Firstly, the aforesaid letter is much prior to the actual allotment of tender to the petitioner which took place on 18.10.2018 vide Annexure P-1 and therefore, the aforesaid sanction, if any, appears to be not pertaining to the subject matter of the present tender regarding which the petitioner is seeking arbitration. Secondly, the aforesaid letter so provides that sanction was made with regard to release of Rs.40 lakhs only and it is so mentioned in the letter that the aforesaid figure of Rs.2,00,18,000/- is an estimated expenditure and therefore, such an estimated expenditure cannot be termed as contract value which is so specifically provided in Clause 24.1 and Clause 24.2, as reproduced above. In other words, it is the contract value at the time of the grant of the contract which is to be seen for the aforesaid purpose as to whether the arbitration clause will be made applicable or not and as to whether the subject matter will fall in Clause 24.1 or Clause 24.2. Clearly, the contract value is Rs.1.57 crores which is less than Rs.2 crores and Clause 24.1 clearly provides that in such a case the matter will go to the Court and no arbitration procedure has been prescribed.

11. It is a settled law that at the time of reference stage under Section 11 of the Act, the Court has to satisfy itself that there is a *prima facie* existence of an arbitration clause. The aforesaid Clause 24 which pertains to dispute redressal system has segregated the contract value under different heads and the intention is very clear that when the contract value is less than Rs.2 crores, then the matter will go to the Court and there is no



provision for arbitration and therefore, this Court is not satisfied with regard to existence of any arbitration clause pertaining to the contract value less than Rs.2 crores. In the present case, clearly the contract value was less than Rs.2 crores. The mere fact that it got enhanced to more than Rs. 2 crores during the execution of the contract will not make any difference for the purpose of invocation of the aforesaid Clause 24.2.

12. This Court also had an occasion to consider the aforesaid Clause in another arbitration case bearing No.ARB-726-2025, titled *M/s Harshit Constructions versus Chaudhary Charan Singh Haryana Agriculture University and others* and had rather dismissed the same.

13. In view of the aforesaid facts and circumstances, the present petition being devoid of any merit is hereby dismissed.

10.02.2026

rakesh

(JASGURPREET SINGH PURI)

JUDGE

Whether speaking : Yes/No
Whether reportable : Yes/No