

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

(Through VC)

Arb P 50/2022

M/S Sgf Infra Pvt Ltd Earlier Known As M/S ...Petitioner(s)/appellant(s)
Satvir Gupta Fabricators Th Ajay Gupta

Through: Ms. Yashoda Thakur, Advocate.

Vs.

J & K State Power Dev Corporation th. Its ...Respondent(s)
Executive Engineer And Others

Through: Mr. Amit Gupta, AAG, R- 1 to 4.

CORAM:

HON'BLE THE CHIEF JUSTICE.

O R D E R
31.03.2023

1. Heard Ms. Yashoda Thakur, learned counsel for the petitioner. Also heard Mr. Amit Gupta, learned counsel for the respondents and perused the record annexed with the petition.
2. The petitioner has filed the instant petition under Section 11(6) of the J&K Arbitration and Conciliation Act, 1996 (hereinafter referred to as "Act") seeking a direction for reference of the dispute arising out of work contract agreement No. 02 of 12/2006 dated 19.12.2006 *inter se* the parties to an independent Arbitrator, on the strength of the arbitration clause contained in the agreement.
3. The facts which emerge from the records are that the petitioner was awarded a contract for construction including design and investigations, supply, fabrication, erection (including associated civil works) and launching of motorable suspension bridge (previously foot suspension bridge) approximately 325 mtrs span, 3.60 m width over river Chenab.
4. In connection with the said contract, certain disputes arose between the parties. Accordingly, petitioner vide legal notice dated 09.06.2021 invoked the arbitration clause, but the respondents failed to refer the disputes to arbitration or to appoint an arbitrator. The petitioner having left with no

other option, filed the present arbitration petition for the appointment of an arbitrator.

5. That the said agreement contains an arbitration clause which is not disputed by the respondents. Though petitioner has duly invoked the same, the arbitrator has not been appointed. No reasonable reason has been assigned by the respondents for not adhering to the arbitration clause.

6. In view of the above, it is a fit case where this Court ought to appoint an arbitrator to resolve the dispute between the parties in connection with the contract in question.

7. Accordingly, I appoint, Shri D.K. Kapoor, Retd. District and Sessions Judge, Jammu, (Former Member of J&K State Consumer Commission), House No.135, Indira Vihar Patoli, Old Janipur, Jammu, as the sole arbitrator, who shall proceed in the matter in accordance with the provisions of the Act, after affording an opportunity of hearing to both the parties, who are at liberty to raise all the preliminary objections before the arbitrator. The arbitrator shall, thereafter, make an award within the time provided in the Act itself after charging the prescribed fee along with incidental expenses to be shared by the parties.

8. Registry to inform the above said officer and the parties about the appointment of the arbitrator in this matter.

9. Arbitration petition stands closed.

**(N.KOTISWAR SINGH)
CHIEF JUSTICE**

SRINAGAR

31.03.2023

Junaid