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

**ARB-622-2021 (O&M)
Date of Decision: 24.12.2025**

Ram Avtar Gupta (Govt.) Contractors, Builders and Suppliers

.... Applicant

Versus

Haryana State Warehousing Corporation and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Nikhil Handu, Advocate &
Mr. Amit Gupta, Advocate,
for the applicant.

Mr. Prateek Mahajan, Advocate &
Mr. Daanish Mahajan, Advocate
for the respondents.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is an application filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') praying for appointment of an independent Sole Arbitrator to adjudicate upon the disputes which have arisen between the parties.

2. Learned counsel for the applicant submitted that an Agreement was executed between the applicant and the respondents in which there exists a valid arbitration clause i.e. Clause 25(A). The said clause has been annexed with the present petition vide Annexure P-1 which provides that in case any dispute or difference arises between the parties, the matter shall in the first instance be referred to the concerned authorities and thereafter to the Arbitrator. He further submitted that the initial mechanism was exhausted by the applicant and thereafter, the applicant had issued a notice to the

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respondents vide Annexure P-10 dated 21.10.2016 by invoking the arbitration clause to which the respondents filed their reply dated 04.11.2016 (Annexure P-11) whereby they have rejected the claim of the applicant. He further submitted that thereafter again for two times, similar kind of notices were issued to the respondents including Annexure P-14 whereby detailed claims were made. He submitted that since the mechanism for appointment of an Arbitrator has failed, the present application has been filed for appointment of an independent Sole Arbitrator by this Court in pursuance of the aforesaid arbitration clause.

3. On the other hand, Mr. Prateek Mahajan, learned counsel for the respondents has objected to the aforesaid and submitted that the present application is not maintainable on the ground of limitation. He referred to Annexure P-10 and submitted that the aforesaid notice for invoking the arbitration clause was served upon the respondents on 21.10.2016 and the respondents on 04.11.2016 had replied to the same and even if the period of three years from the aforesaid date of 04.11.2016 is computed, the same expired on 03.11.2019 whereas the present application has been filed on 24.11.2021 which is clearly beyond the period of limitation i.e. three years. He also submitted that the mere fact that subsequent notices were also issued to the respondents which were in-continuation of the earlier notice can neither save the period of limitation for the applicant nor can it exclude the period of limitation under any circumstance because after the expiry of three years i.e. 03.11.2019, the period of limitation for filing the present application under Section 11(6) of the Act remained time barred.

4. Learned counsel for the respondents also submitted that there was another contract between the applicant and the respondents which was a



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similar contract and similar kind of controversy arose between the parties pertaining to the issue of limitation and even the language which was used in the notice (Annexure P-10) was in verbatim to that of the language which was used in another case and an Arbitrator was appointed by a Co-ordinate Bench of this Court in **Arbitration Case No.86 of 2022** titled as “**Ram Avtar Gupta Vs. Haryana State Warehousing Corporation**” on 23.02.2023. However, a SLP was preferred against the aforesaid order of appointment of the Arbitrator and Hon’ble Supreme Court vide order dated 06.12.2024 set aside the aforesaid order dated 23.02.2023 passed by a Co-ordinate Bench of this Court on the ground of limitation in **SLP(C) No.10178 of 2023** and therefore, the present application is purely barred by limitation and hence, liable to be dismissed.

5. I have heard learned counsels for the parties.

6. The law with regard to the period of limitation for filing a petition under Section 11 of the Act is no longer *res integra*. Hon’ble Supreme Court in “**SBI General Insurance Company Limited Vs. Krish Spinning**”, **2024 SCC Online SC 1754** observed that after the issuance of notice under Section 21 of the Act, the period of limitation for filing of the application under Section 11 of the Act is three years. The relevant portion of the judgment of the Hon'ble Supreme Court in **SBI General Insurance Co. Ltd.'s case (Supra)** is reproduced as under:-

“127. In Arif Azim (supra), while deciding an application for appointment of arbitrator under Section 11(6) of the Act, 1996, two issues had arisen for our consideration:

i. Whether the Limitation Act, 1963 is applicable to an for appointment of arbitrtator under Section 11(6) of the Arbitration and Conciliation Act,



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1996? If yes, whether the petition filed by M/s Arif Azim was barred by limitation?

ii. Whether the court may decline to make a reference under Section 11 of Act, 1996, where the claims are ex-facie and hopelessly time barred?

128. On the first issue, it was observed by us that the Limitation Act, 1963 is applicable to the applications filed under Section 11(6) of the Act, 1996. Further, we also held that it is the duty of the referral court to examine that the application under Section 11(6) of the Act, 1996 is not barred by period of limitation as prescribed under Article 137 of the Limitation Act, 1963, i.e., 3 years from the date when the right to apply accrues in favour of the applicant. To determine as to when the right to apply would accrue, we had observed in paragraph 56 of the said decision that "the limitation period for filing a petition under Section 11(6) of the Act, 1996 can only commence once a valid notice invoking arbitration has been sent by the applicant to the other party, and there has been a failure or refusal on part of that other party in complying with the requirements mentioned in such notice."

7. A similar case which was cited by learned counsel for the respondents in which the order passed by a Co-ordinate Bench of this Court in a similar contract between the applicant and the respondents whereby an Arbitrator was appointed, was set aside by Hon'ble Supreme Court on the ground of limitation. The aforesaid order dated 06.12.2024 passed by Hon'ble Supreme Court is reproduced as under:-

"Leave granted.

In our opinion, the petition filed by the respondent, Ram Avtar Gupta, under Section 11(6) of the Arbitration



Conciliation Act, 1996, on 18.02.2022 was clearly barred by limitation and was raising stale and delayed claims. It is accepted and admitted that the final measurement, after the work was done, was taken in December, 2015. The respondent, Ram Avtar Gupta, had thereupon made a request for appointment of an Arbitrator, vide letter dated 31.08.2016. The said request was rejected by the appellant, Haryana State Warehousing Corporation, on 08.09.2016.

Notwithstanding the aforesaid rejection, the respondent, Ram Avtar Gupta, had written other communication(s) seeking appointment of an Arbitrator, which was lastly rejected, vide letter dated 4.09.2018. This letter dated 04.09.2018 merely reiterated what was stated in the earlier communication dated 08.09.2016.

Given the aforesaid position, the High Court was wrong in referring the matter to arbitration as, in this case, the arbitration was clearly barred by limitation.

The impugned judgment is accordingly set aside and the appeal is allowed and disposed of in the aforesaid terms. Arbitration Case No. 86/2022 filed by the respondent, Ram Avtar Gupta, under Section 11(6) of the 1996 Act will be treated as dismissed.

Pending application(s), if any, shall stand disposed of.”

8. During the course of arguments, learned counsel for the respondents has also supplied a copy of the similar notice which was issued in the aforesaid similar case, which is hereby taken on record as ‘Mark X’. In similar circumstances when a Co-ordinate Bench of this Court in the aforesaid similar case had appointed an Arbitrator, the same was set aside by Hon’ble Supreme Court as aforesaid on the ground of limitation.

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9. During the course of arguments, learned counsel for the respondents has also informed that even pertaining to the aforesaid order passed by Hon'ble Supreme Court, a curative petition was also filed by the petitioner which was also dismissed.

10. The facts and circumstances of the present case make it very clear that the applicant had invoked the aforesaid arbitration clause by issuing a formal notice on 21.10.2016 vide Annexure P-10. A reply was filed by the respondents on 04.11.2016 and the present application has been filed on 24.11.2021. Therefore, filing of the application under Section 11 of the Act is clearly barred by limitation.

11. In the facts and circumstances of the present case, this Court is of the considered view that the present application under Section 11 of the Act is not maintainable being barred by limitation and therefore, the same is hereby dismissed.

24.12.2025*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |