

निदेशक (प्रणाली) दि.वि.प्रा.

डायरी नं. 554

दिनांक 10/5/23



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Azadi Ka  
Amrit Mahotsav

दिल्ली विकास प्राधिकरण

**DELHI DEVELOPMENT AUTHORITY**

**ई.एम. सचिवालय**

**E.M's Secretariat**

No. EM 2(3)2023/SZ/218/DDA/196

Dated: 10/5/2023

**MINUTES OF THE 863<sup>rd</sup> MEETING OF ASB HELD ON 04.05.2023 IN  
THE CHAMBER OF FINANCE MEMBER, DDA**

863<sup>rd</sup> Meeting of Arbitration Security Board (ASB) under the chairmanship of Finance Member was scheduled to be held on 04.05.2023 at 05:00 P.M. in his chamber to deliberate Arbitral award in the matter of "M/s Stallion Security Vs Executive Engineer, SMD-3, DDA" in respect of the following work:-

- N.O.W** : Protection of DDA land under South Zone  
**Sub-head** : Deployment of private security guards for the watch & ward of vacant plots/lands and all the roads under the jurisdiction of South Zone  
**Agency** : M/s Stallion Security  
**Agmt. No.** : 06/EE/SMD-3/SZ/DDA/2020-21 dated 05.06.2020

The Agenda note submitted by the CE (SZ) vide file no. ARB/ENGG(44456)22/Legal/340 dated 11.04.2023.

The meeting was attended by the following officers:-

- |    |                        |                         |                   |
|----|------------------------|-------------------------|-------------------|
| 1. | Sh. Vijay Kumar Singh  | FM, DDA                 | Chairman          |
| 2. | Sh. Sanjay Kumar Khare | CE (HQ)(on leave)       | Executive Member  |
| 3. | Sh. K.S. Meena         | CE (SZ)                 | Member            |
| 4. | Sh. Vinod Kumar        | Dy. CLA-III             | Member            |
| 5. | Sh. R.K. Bhanwaria     | Dir. (Works)/Consultant | Member, Secretary |

12/05/23  
Sh. Joshi DDA



The case was presented by Sh. K.S. Meena, CE(SZ), DDA.

In this case earlier ASB meeting was held on 02.05.2023 at 03:15 pm in the chamber of FM, DDA and it was decided by the ASB that legal opinion for the following points may be provided before next ASB meeting as opined by chairman of ASB.

- 1) Whether the Delhi Arbitration Centre is competent to entertain, try and decide the issues arises from the agreement dated 05.06.2020.
- 2) If no, whether at this stage we can challenge the said appointment before the competent court of law.

Accordingly, the file was sent to Ld. CLA for legal opinion on the above points. The legal opinion as per Addl. CLA and consented by Ld. CLA is as under:-

- 1) The Delhi Arbitration Centre is competent to entertain the dispute for the purpose of arbitration, provided the registration of M/s Stallion Security is prior to the date of execution of the agreement with DDA. The date of registration needs to be ascertained for deciding this aspect.
- 2) Ld. CLA has opined that we can challenge the said appointment of arbitrator with respect to the qualification of the arbitrator. The award is also contrary to the express embargo in clauses 33 and 34 of the agreement.

After obtaining the above opinion from the Ld. CLA the ASB meeting was again held on 04.05.2023 at 05:00 pm in the chamber of FM, DDA.

**Brief history of the case is as under:-**

The above cited work was awarded to M/s Stallion Security vide letter No. F.7(501)/SMD.3(ED.7)/SZ/DDA/A/19-20/214 dt. 04.06.2020. The date of commencement and completion of the work was 19.06.2020 & 18.06.2021 respectively. The actual date of completion was 01.10.2021. The 4<sup>th</sup> and final bill was passed on 15.02.2022 and already paid to the claimant.

Dispute arose between agency and DDA during execution of work therefore the agency M/s Stallion Security has filed the arbitration case before MSME facilitation council, Delhi Arbitration Centre (DAC) and DAC has appointed Sh. Vijay Singla, Advocate, Signus Arbitration Chambers C-1/11, LGF, West Enclave, Pitampura, New Delhi-10034 as arbitrator vide letter No. DAC/MSME/A/D-101-197 dt.14.09.2022. The copy of statement of claim of the claimant M/s Stallion Security was



supplied to the DDA on 24.09.2022 by the Ld. Arbitrator, Sh. Vijay Singla.

Sh. Anupam Sharma, Advocate was appointed as Panel Lawyer by the Legal Branch, DDA in the above referred case on dt.09.12.2022.

***The application under Section 12, 13 & 16 of the Arbitration and Conciliation Act, 1996 was filed vide office letter No. F3(19)Misc/SMD-3/SZ/DDA/2022-23/492 dt.16.12.2022 before Sh. Vijay Singla, the Ld. Arbitrator as the Arbitrator was appointed in violation of Clause 25 of the agreement. Vide this application, kind attention of the Ld. Tribunal was drawn to clause 25 of the Agreement which clearly provided that only those persons be appointed as Arbitrator who is graduate Engineer with experience in handling public works contract at a level not lower than Chief Engineer, which was the mandatory qualification to be appointed as Arbitrator.***

SOD (Statement of Defence) alongwith an application for waiver of cost was filed vide office letter No. F3(19)Misc/SMD-3/SZ/DDA/2022-23/495 dt. 19.12.2022 before Sh. Vijay Singla, The Ld. Sole Arbitrator.

Vide order dt. 22.12.2022 the Ld. Arbitrator, Sh. Vijay Singla, has dismissed the application filed by the office of EE/SMD-3 under Section 12, 13 & 16 of the Arbitration and Conciliation Act, 1996.

After the submission of SOD, evidence and written arguments, Sh. Vijay Singla, Ld. Arbitrator has published the award on 15.02.2023 in favour of the claimant amounting to Rs.1,00,80,274.00 (Rs.90,88,466.00 + payment of interest Rs.9,91,808.00) + Litigation Cost Rs.35,000.00 + Future interest at the rate of interest as per RBI guidelines in accordance with Section 16, MSMED Act per annum on awarded amount from 15.02.2023 till realization and this award was received in the office of EE/SMD-3 on 28.02.2023 vide Dy. No. 278 from the Registrar, Delhi Arbitration Centre.

**Legal Opinion of the Panel Lawyer:**

He has opined to challenge the award as it is against the agreed terms and conditions and may also act as a precedent for all future contracts where GST is stated to be not payable.

**Recommendation of CLA:**

The Legal branch, DDA has opined to file the appeal against the award published by the Ld. Arbitrator.



**Recommendation of CE (SZ):**

S. No	Particulars of item	Amount claimed by the agency/claimant	Amount awarded by the Arbitrator	Accepted/Challenged
1.	Pending payment against 10 clause i.e. reimbursement towards increase in minimum wages rates by the government.	Rs. 29,78,714/-	Rs.29,78,714/-	To be challenged
2.	GST reimbursement charges.	Rs. 45,65,700/-	Rs.45,65,700/-	To be challenged
3.	Reimbursement of security amount.	Rs. 4,47,395/-	Rs. 4,47,395/-  If the respondent does not release the said amount till 30.03.2023, then respondent shall be liable to pay interest.	Accepted
4.	Balance payment towards ESI/EPF charges.	Rs. 7,96,657/-	Rs. 7,96,657/-	To be challenged
5.	Reimbursement of QC/Audit & Vig. Amount.	Rs.3,00,000/-	Rs.3,00,000/-	To be challenged
6.	On account of Interest payment	Rs.13,52,128/-	Rs.9,91,808/-	To be challenged
7.	On account of cost of litigation & legal expenses	Rs.1,00,000/-	Rs.35,000/-	To be challenged
8.	Cost of Arbitration fees paid by the petitioner	Rs.1,77,950/-	Nil	--



**Recommendation of ASB:**

As per opinion of CLA/DDA, the Delhi Arbitration Centre is competent to entertain the dispute for the purpose of arbitration, provided the registration of M/s Stallion Security is prior to the date of execution of the agreement with DDA.

Also as per CE (SZ) (P-125/C) date of Udyam Registration of agency M/s. Stallion Security is 20.09.2020 & date of agreement with DDA is 05.06.2020. Therefore, the registration of M/s. Stallion Security in Ministry of Micro, Small and Medium Enterprises is after the commencement of agreement with DDA. Therefore DAC was not competent in term of the advice.

Therefore as per the opinion of CLA and recommendations of CE (SZ), ASB is of the view that, claim no. 1, 2, 4, 5, 6 & 7 to be challenged and claim no. 3 i.e. release of security deposit is to be accepted as payment has already been made to the agency as per clause 17 of the agreement.

Therefore after due discussion and deliberation of the ASB, this Arbitrational award is to be challenged.

As per revised delegation of power issued vide no. EM1(10)2018/Del. Of Power/DDA/260 dated 29.01.2019 by CE (HQ) DDA, Hon'ble VC/DDA is the Competent Authority in r/o award amount up to Rs. 500 Lakhs in consultation with FM/DDA, with due scrutiny by Arbitration Scrutiny Board headed by FM/DDA.

-Sd-  
Dir(Works)/Consultant  
Member Secretary

-Sd-  
Dy. CLA-III  
Member

-Sd-  
CE(SZ)  
Member

(On Leave)  
CE(HQ)  
Executive Member

-Sd-  
FM, DDA  
Chairman

Director (Works)/Consultant  
(Member Secretary)

**Copy to:**

- 1) EM/DDA for kind information.
- 2) All concerned.
- ✓ 3) Director (System) for uploading on DDA website.
- 4) EE/SMD-3/DDA.

*ASB*  
Director (Works)/Consultant  
(Member Secretary)  
08/05/2023

