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## Case Update

### Punjab and Haryana High Court injuncts SEPCO Electric Power Construction Corporation from proceeding with arbitration before the SIAC.

DATED: 05/03/2025



The Punjab and Haryana High Court has issued an injunction restraining SEPCO Electric Power Construction Corporation from proceeding with arbitration before the Singapore International Arbitration Centre ("SIAC"). The order was passed in *Talwandi Sabo Power Limited v. SEPCO Electric Power Construction Corporation*, wherein SKV Law Offices represented the petitioner, Talwandi Sabo Power Limited.

The dispute arises from a contractual relationship between Talwandi Sabo Power Limited and SEPCO Electric Power Construction Corporation. The agreements governing their contractual obligations included a Novated Agreement dated November 17, 2009, ("Novated Agreement") and an amended Umbrella Agreement dated November 15, 2012 ("Umbrella Agreement"). These agreements stated that Indian law would govern the contractual relationship and that Indian courts would have exclusive jurisdiction over disputes arising from them.

The petitioner filed an application under Section 9 of the Arbitration and Conciliation Act, 1996 ("A&C Act"), seeking an injunction against SEPCO from initiating or continuing proceedings before SIAC in Application No. 039 of 2024. The petitioner argued that the agreements stipulated Indian law as the governing law and Indian courts as having exclusive jurisdiction. It was also contended that an arbitration had already been initiated under the A&C Act, and that the petitioner had approached the Supreme Court of India under Section 11 for the appointment of a third arbitrator. The petitioner further challenged SEPCO's unilateral reference of the dispute to SIAC, asserting that the arbitration agreement did not explicitly designate Singapore as the 'seat' of arbitration.

SEPCO countered these claims by arguing that since Singapore was designated as the 'place' of arbitration, it should also be considered the legal 'seat,' making Singaporean law applicable. The respondent also claimed that under the International Arbitration Act, 1994 of Singapore, disputes could be referred to SIAC without requiring the petitioner's consent. SEPCO further submitted that the petitioner had delayed filing the application under Section 9 and that the principle of comity of courts should prevent an Indian court from interfering with arbitration proceedings already initiated in a foreign jurisdiction.

After considering the submissions, the Punjab and Haryana High Court ruled in favour of the petitioner, granting an injunction against the SIAC proceedings. The High Court observed that the agreements between the parties provided for Indian laws to govern the disputes and for Indian courts to have jurisdiction. It relied on the decision in *BGS SGS Soma JV v. NHPC Ltd.* and concluded that in terms of the test laid down therein, there were significant contrary indicia to the court's mind for the prima facie case in the present facts, thus it was held that the 'place' of arbitration is not the 'seat' of arbitration in the present case. The Court also noted that allowing SIAC to proceed with appointing an arbitrator while the Supreme Court of India was seized of the matter under Section 11 of the A&C Act could lead to conflicting arbitral proceedings. Additionally, the Court found that the petitioner had approached the Supreme Court for the appointment of an arbitrator without undue delay and was therefore entitled to relief.

The ruling in *Talwandi Sabo Power Limited v. SEPCO Electric Power Construction Corporation* clarifies the principles governing international arbitration under Indian law. It highlights that merely designating a foreign venue does not necessarily confer jurisdiction upon foreign arbitral institutions, particularly when agreements provide for the exclusive jurisdiction of Indian courts.

Click [here](#) to read the full order by the Punjab and Haryana High Court

*Talwandi Sabo Power Limited was represented in the Punjab and Haryana High Court by Shri Venkatesh (Founding Partner), Bharath Gangadharan (Counsel) and Manu Tiwari (Associate) of the SKV Law Offices Team.*