

GAHC010216362023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Arb.P./33/2023

PANKAJ PHUKAN
PROPRIETOR, M/S RISHI FILING STATION, S/O- LATE TRILUSON PHUKAN,
R/O- KACHUGAON VILLAGE, P.O. PULIBOR, P.S. GOLAGHAT, DIST.
GOLAGHAT, ASSAM

VERSUS

BHARAT PETROLEUM CORPORATION LIMITED AND 2 ORS
REPRESENTED BY THE CHAIRMAN AND MANAGING DIRECTOR, BHARAT
BHAWAN, 4 AND 6 CURRIMBHOY ROAD, BALLARD ESTATE, MUMBAI-
400001.

2:THE HEAD (RETAIL)
EAST BHARAT PETROLEUM CORPORATION LIMITED
INDIA.

3:MANAGER
ENGINEERING (RETAIL)
GUWAHATI TERRITORY
BHARAT PETROLEUM CORPORATION LIMITED
INDIA

Advocate for the Petitioner : MR. U S BORA

Advocate for the Respondent : SC, BPCL

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 27-09-2023

Heard Mr. U.S. Bora, learned counsel for the petitioner and Mr. S.S. Roy,

learned counsel for all the respondents.

2. The petitioner has preferred the instant application under Section 11[6] of the Arbitration & Conciliation Act, 1996, as amended, seeking appointment of a sole arbitrator to adjudicate the disputes and difference which have allegedly arisen between the petitioner and the respondent Bharat Petroleum Corporation Ltd. [BPCL]. It is the case of the petitioner that the disputes and differences between the petitioner and the respondent BPCL authorities have arisen due to termination of a Dispensing Pump and Selling Licence [DPSL] Agreement dated 27.02.2021 entered between the petitioner and the respondent BPSL. By the Dispensing Pump and Selling Licence [DPSL] Agreement dated 27.02.2021, licence was granted to the petitioner for a period of 15 [fifteen] years from 27.02.2021 for selling of motor spirit and/or High Spirit Diesel [HSD]/motor oils, greases and other motor accessories from a filling station named as M/s Rishi Filling Station.

3. The said Dispensing Pump and Selling Licence [DPSL] Agreement dated 27.02.2021 *inter alia* contains the following clauses :

18. Any dispute or difference whatsoever arising out of or in connection with this Agreement including any question regarding its existence, validity, construction, interpretation, application, meaning, scope, operation or effect of this contract or termination thereof shall be referred to and finally resolved through arbitration as per the procedure mentioned hereinbelow :

[a] The dispute or difference shall, in any event be referred only to a sole Arbitrator.

[b] The appointment and arbitration proceedings shall be conducted in accordance with SCOPE forum of Arbitration Rules for the time being in force or as amended from time to time.

[c] The Seat of Arbitration shall be at Guwahati.

[d] The proceedings shall be conducted in English language.

[e] The cost of the proceedings shall be equally borne by the parties, unless otherwise directed by the Sole Arbitration.

4. As the Dispensing Pump and Selling Licence [DPSL] Agreement dated 27.02.2021 has been terminated by the respondent BPCL authorities by a termination letter dated 26.05.2023, the petitioner has preferred the instant petition under Section 11[6] of the Arbitration & Conciliation Act, 1996, as amended, seeking appointment of a sole arbitrator in terms of the aforementioned arbitration clauses contained in Clause 18 of the Dispensing Pump and Selling Licence [DPSL] Agreement dated 27.02.2021. On perusal, it is noticed that the petitioner had agreed to resolve the dispute and difference which include termination, as per the procedure mentioned in clause 18. Clause 18 has provided that the appointment and arbitration proceeding shall be conducted in accordance with the Standing Conference of Public Enterprises [SCOPE] forum of Arbitration Rules for the time being in force or as amended from time to time. As there is no pleading that the petitioner has invoked the arbitration clause in the proper manner, by informing the respondent BPCL that he intends to refer the disputes and differences including the termination of Dispensing Pump and Selling Licence [DPSL] Agreement, this Court at this stage, is not entertaining the instant petition, reserving the liberty to the petitioner to adhere to the prescribed procedure, as laid down in SCOPE forum of Arbitration Rules and/or the Arbitration and Conciliation Act, 1996.

JUDGE

Comparing Assistant