



Serial No. 02
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Arb. P. No. 4 of 2024

Date of Decision 23.10.2024

M/s Varindera Constructions Limited.
- Versus -

... Petitioner(s)

1. The Union of India
Through HQ Chief Engineer (AF)
Shillong Zone, Elephant Falls Camp,
P.O. Nonglyer, Shillong-793009.

2. The Engineer-in-Chief,
Military Engineering Services HQ of
Ministry of Defence (Army) Kashmir
House, Rajaji Marg, New Delhi-110011

... Respondent(s)

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Ms. R. Mittal, Adv. with
Mr. R. Pahsyntiew, Adv.

For the Respondent(s) : Dr. N. Mozika, DSGI with
Ms. K. Gurung, Adv.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No



JUDGMENT AND ORDER (ORAL)

1. The present petition has been filed by the petitioner under Section 11(5) and 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of a sole arbitrator to adjudicate disputes between the petitioner and the respondents.

2. The dispute in question has arisen from a contract agreement between the petitioner and the respondent, Military Engineering Services (MES) for Infrastructure Development Work at different AF Station in Assam and West Bengal vide Contract No. CCE(NEP)/02 of 2018-19, wherein the petitioner's tender bid was accepted on 13.08.2018. The contract contains an Arbitration Clause (Clause 70 of the General Conditions of the Contract IAFW 2249), which specifies the appointment of a sole arbitrator in case of disputes.

3. It is the case of the petitioner represented by Ms. R. Mittal, learned counsel, that after completion of the work, final bills for the respective works along with other payments which were due from the respondents were submitted, which however have not been honoured. It is the further case that the respondents have also compelled the



petitioner to extend the performance Bank Guarantee, and that as the issues persisted, the petitioner had formally requested the respondents for arbitration citing Clause 70 of the General Conditions of the Contract. On the respondents not acceding to the same, the instant petition seeking intervention of this Court for appointment of a sole arbitrator has been filed.

4. The respondents represented by Dr. N. Mozika, learned DSGI assisted by Ms. K. Gurung, learned counsel while raising questions as whether any dispute has arisen at all on the contention that the final bills had not been submitted, however, on the same being refuted by the counsel for the petitioner, wherein a statement made in the respondents' affidavit has been pointed out admitting to the same, has conceded and submitted that a sole arbitrator may be appointed from the List of Arbitrators given in Para-29 of the said affidavit itself.

5. Accordingly, as agreed by the parties from the List of Arbitrators as given in Para 29 to the affidavit, a person appearing at Serial (c) namely; Shri Arvind Kumar Arora, DG (Retd.) MES is



therefore appointed as a sole arbitrator to adjudicate on the issues, as provided in Clause 70 of the General Conditions of the Contract.

6. As ordered above, the instant arbitration petition is accordingly disposed of.

JUDGE

Meghalaya
23.10.2024
"V. Lyndem-PS"