



Serial No. 29
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Arb. P. No. 8 of 2023

Date of Decision: 19.06.2024

Bhagheeratha Engineering Limited,
Bhagheeratha Residency,
Banerji Road, Kochi- 682018, Kerela

:::Petitioner

-Vs-

North Eastern Electric Power Corporation
Ltd., Brookland Compound, Lower
New Colony, P.B. No. 79, Shillong-793003

:::Respondents

Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Ms. A. Chettri, Adv. vice
Mr. George Thomas, Adv.

For the Respondent(s) : Mr. V.K. Jindal, Sr. Adv. with
Ms. B. Jyrwa, Adv.

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



Oral:

1. By way of this application under Section 11(6) of the Arbitration and Conciliation Act, 1996, (hereinafter referred to as the ‘Act’) the petitioner company is seeking the appointment of an Arbitrator on behalf of the respondents, to act along with the arbitrator nominated by the petitioner under the Act for adjudication of all disputes between the parties.
2. The brief facts are that the petitioner had entered into a contract with the respondent corporation, and during the execution of the same, as certain disputes had arisen, the same were referred to arbitration under the terms of the contract. During the arbitral proceedings, the respondent had then filed an application under Section 16 of the Act, contending that the disputes were not arbitrable. After the application of the respondents had been heard by the Arbitral Tribunal, it was held that the same would be decided along with the award that was to be passed. The arbitral award was then declared allowing a few claims of the petitioner but, the application filed by the respondents though reserved to be passed along with the award, was not decided. Thereafter, both the petitioner and the respondents challenged the award before the Commercial Court at



Shillong.

3. The Learned Commercial Court by order dated 28.06.2022, had then set aside the award, wherein thereafter, the petitioner invoked arbitration by letter dated 15.07.2022. However, on the refusal of the respondents to appoint their nominee arbitrator, the petitioner has approached this Court for such appointment on behalf of the respondents under Section 11(6) of the Act.

4. The matter was then taken on board and as there were objections by the respondents to this application, the same was heard and decided by a detailed order rendered on 20.05.2024, whereby the said objections were rejected. This Court then by order dated 05.06.2024, had directed the respondents to obtain the consent of Hon'ble Mr. Justice Amitava Roy (Retired Supreme Court Judge) which has been since obtained and communicated to the Registry vide a letter dated 08.06.2024.

5. On the acceptance of Hon'ble Mr. Justice Amitava Roy (Retired Supreme Court Judge) to be appointed as Arbitrator on behalf of the respondents, he is therefore accordingly appointed as the Arbitrator, on behalf of the respondents to constitute the arbitral tribunal along with the Arbitrator nominated by the petitioner namely Mr. Subhash I. Patel (Retired Secretary) Government of Gujarat. The two Arbitrators will also nominate the Presiding Arbitrator for the conduct of the proceedings.



6. It is made clear that, the parties shall be at liberty to raise all issues in dispute before the said Arbitral Tribunal for adjudication.

7. The instant Application accordingly stands disposed of.

8. Copy of this order to be supplied to the respective Arbitrators by the Registry.

Judge

Meghalaya
19.06.2024
“D.Thabab-PS”

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THABAH

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