

GAHC010016792023



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

Case No. : Arb.P./8/2023

GEO TECH INFRASTRUCTURE
A PARTNERSHIP FIRM HAVING ITS REGD OFFICE AT H NO. 1-110/71 AND
72, GROUND FLOOR, GOLDEN TULIP ESTATES, KONDAPUR,
SERILINGAMPALLY, RAANGA REDDY DIST- TELANGANA AND IS REP. BY
ITS MANAGING PARTNER C SUDHAKAR REDDY, S/O- C BHOOM REDDY,
R/O- HNO. 1-110/71 AND 72 GOLDEN TULIP ESTATES, KONDAPUR,
SERILINGAMPALLY, RANGA REDDY DIST- TELANGANA- 500084

VERSUS

BASU-SHIMRAY (JV) AND ANR
HAVING ITS HEAD OFFICE AT HOTEL SHIROY CLASSIC, PALTAN BAZAR,
SOLAPARA ROAD, GUWAHATI- 781008 AND IS REP. BY ITS LEAD PARTNER
TUMLEE BOGUM

2:NORTHEAST FRONTIER RAILWAY
REP. BY GM/CONS. OFFICE OF THE GM/ CON
NEF RAILWAY
MALIGAON
GHY- 0

Advocate for the Petitioner : MR G N SAHEWALLA

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 19.07.2024

Heard Mr. G.N. Sahewalla, learned Senior Counsel assisted by Mr. M. Sahewalla, learned counsel for the petitioners. Also heard Mr. A. Chetia, learned counsel for respondent No.1 and Ms. N.N. Sharma, learned counsel for Railways.

2. This is an application under Section 11 of the Arbitration and Conciliation Act, 1996. The learned counsel for the petitioner has referred to the Arbitration Clause, which is available in the Sub-Contract Agreement. In the agreement by and between the parties, there is a Sub-Contract, which reflects that all disputes relating to the agreement will be mutually settled and in case of any differences the same will be decided by the Arbitrator. It is submitted that because of differences which arose out of the contract, a notice under Section 21 of the Arbitration and Conciliation Act, 1996 was issued by the petitioner dated 22.11.2022. It is submitted that the same was duly received. However, they did not take any steps for appointment of the Arbitrator.

3. Mr. A. Chetia, learned counsel for respondent No.1 submits that he has no objection if the Court appoints an Arbitrator as for reasons beyond their control, they failed to appoint an Arbitrator in terms of the notice dated 22.11.2022 issued under Section 21 of the Arbitration and Conciliation Act, 1996. Accordingly, since it is established that inspite of the statutory notice under Section 21 of the Arbitration and Conciliation Act, 1996, the Arbitrator as required was not appointed and as the agreement itself contains an arbitration

clause to appoint an Arbitrator where differences and disputes, this Court is of the view that the petitioners have succeeded in establishing their case that the direction under Section 11 (6) of the Arbitration and Conciliation Act, 1996 is required to be issued.

4. Ms. N.N. Sharma, learned counsel for Railways does not object to the prayer of the petitioner. Accordingly, parties appearing before the Court, namely, petitioner and respondent No.1 have agreed that retired District and Sessions Judge, Smti. Chaya Rani Goswami may be appointed as an Arbitrator.

5. The learned counsels for the parties submit that her name also appears in the Notification No. 99 published by the Gauhati High Court dated 4th August, 2023 reflecting the names of the Arbitrators that may be appointed by Court under Section 11 of the Arbitration and Conciliation Act, 1996. Accordingly, this Court directs that Smti. Chaya Rani Goswami, retired District and Sessions Judge, be appointed as an Arbitrator and the Tribunal will decide the disputes raised before it in connection/arising out of the Contract executed by and between the parties will appear before the Arbitrator appointed on 12.08.2024. The Arbitrator will formally convey her consent as is required under the provisions of the Arbitration and Conciliation Act, 1996 and if she expresses her consent, then the arbitrator will proceed in the arbitration expeditiously.

6. Arbitration petition is accordingly disposed of in terms of the above.

JUDGE

Comparing Assistant