

GAHC010019322024



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

Case No. : WP(C)/526/2024

MRIDUL KUMAR HAZARIKA
S/O LATE KUSHAL KUMAR HAZARIKA
R/O VILL- PATHAR CHUBURI
P.O. DEKARGAON, P.S. TEZPUR,
DIST. SONITPUR, ASSAM
PIN784001

VERSUS

HANSRAJ SINGH AND ANR
SOLE PROPRIETOR OF
M/S SHREE DURGA BORJHARGAON
SOLMARA TINIALI,
P.O. DEKARGAON P.S. TEZPUR
DIST. SONITPUR, ASSAM
PIN-784001.

2:MR. BIRAJ NATH
ADVOCATE CUM ARBITRATOR

R/O RUPAK NAGAR
NEAR RUPAK HOTEL
P.O. MURATETLI
P.S. TEZPUR
DIST. SONITPUR
ASSAM
PIN-784001.
ADDRESS FOR COMMUNICATION
MR BIRAJ NATH
ADCOATE CUM ARBITRATOR

C/O TEZPUR BAR ASSOCIATION

P.O. TEZPUR
P.S. TEZPUR
DIST. SONITPUR
ASSAM
PIN-78400

Advocate for the Petitioner : MR. R ALI

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

05.02.2024

Heard Mr. R. Ali, learned counsel for the petitioner.

2. The petitioner in this writ petition preferred under Article 227 of the Constitution of India, has assailed an arbitration proceeding being Arbitration Case no. 01/2020, initiated on the basis of an agreement purportedly executed on 28.02.2019 between the petitioner and the respondent no. 1. It is the case of the petitioner that the respondent no. 2 has been appointed as an arbitrator by the respondent no. 1.

3. Other than the party-respondent no. 1 and the party-respondent no. 2, who are private persons, there is no other respondent impleaded as party-respondent in the instant writ petition. The petitioner has been seeking setting aside and quashing of the arbitration proceeding initiated vide Arbitration Case no. 01/2020, presently pending before the respondent no. 2. The petitioner has also sought for an order staying further proceeding of the arbitration case.

4. It has been settled by the Hon'ble Supreme Court of India in Deep Industries Limited vs. Oil and natural Gas Corporation Limited and another, reported in [2020] 15 SCC 706, that any order passed by an arbitral tribunal is not capable of being corrected by the High Court under Article 226 or 227 of the Constitution of India. The object of an arbitration proceeding is to minimize judicial intervention while the matter is in the process being

arbitrated upon. It has been held that the purpose will be defeated if the High Court is approached under Article 227 or under Article 226 of the Constitution of India against any order made by an arbitral tribunal. It has been held that once the arbitration has commenced in the arbitral tribunal, the parties have to wait until the award is pronounced, unless a right of appeal is available to them under Section 37 of the Arbitration and Conciliation Act, 1996 even at an earlier stage. Where it is open to the aggrieved petitioner to move another tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit, by entertaining a petition under Article 226 of the Constitution, the machinery created under the statute to be bypassed, and will leave the party applying to it to seek resort to the machinery so set up. The object of minimizing judicial intervention while the matter is in the process of being arbitrated upon, is going to be defeated if the High Court could be approached under Article 227 or under Article 226 of the Constitution against every order made by the Arbitral Tribunal.

5. In Navayuga Engineering Company vs. Bangalore Metro Rail Corporation Limited, reported in 2021 SCC OnLine SC 469, following the decision in Deep Industries Limited [supra], it has been observed that the High Court while exercising jurisdiction under Article 226 or 227 of the Constitution of India, should be extremely circumspect in interfering with orders passed under the Arbitration and Conciliation Act, 1996 and such interference can be only in cases of exceptional rarity or cases which are stated to be patently lacking in inherent jurisdiction.

6. As the petitioner has other appropriate remedy and in view of the above position of law, the writ petition is not entertained. Accordingly, the same is dismissed. No cost.

JUDGE

Comparing Assistant