

GAHC010023202023



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

Case No. : Arb.P./10/2023

S M CORPORATION LIMITED
3RD FLOOR, ANIL PLAZA, G.S. ROAD, GUWAHATI-5 REPRESENTED BY SRI
NEELAMJYOTI BORA, AGED ABAOUT 45 YEARS, S/O DANDESWAR BORA,
R/O HOUSE NO. 02, LANE NO. 1 L, AROHAN PATH, LICHUBAGAN ROAD,
HENGRABARI, GUWAHATI, DIST-KAMRUP (M), ASSAM

VERSUS

CHIEF ENGINEER, AIR FORCE, MILITARY ENGINEERING SERIVCES
SHILONG ZONE, ELEPHENT FALLS CAMP, POST OFFICE NONGLYER,
SHILLONG-793009

Advocate for the Petitioner : MR B BORA

Advocate for the Respondent : MR. R K D CHOUDHURY

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

12.01.2024

Heard Shri B. Bora, learned counsel for the petitioner whereas the respondent is represented by Shri RKD Choudhury, learned Dy.SGI.

2. The instant application has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of arbitrator. Shri Bora, learned counsel has referred to Clause 70 of the GCC which provides for adjudication / resolution of a dispute by way of arbitration. He has also submitted that the claims have been raised and the matter is pending only at the stage of such appointment.

3. Shri Choudhury, learned Dy.SGI does not oppose the prayer for appointment of arbitrator in principle as there is contractual provision for such resolution of disputes. He however submits that the arbitrator so appointed should be from the empanelled list.

4. This Court has been apprised that the issue of having an arbitrator, who has a connection with the Department, is pending consideration before a Larger Bench of the Hon'ble Supreme Court.

5. Be that as it may, without even going into that aspect of the matter, the interest of justice would be served if neutral arbitrator is appointed, more so, when very objective of the Act of 1996 is to have a speedy and efficacious resolution of disputes in contractual matters.

6. In that view of the matter, the instant petition is disposed of by appointing Shri Justice B.K. Sharma, (Retd.) of the Gauhati High Court to act as the arbitrator to resolve the dispute between the parties.

7. Consequently, the parties are required to approach the learned Arbitrator within a period of 15 days from today from which date, the matter would be taken up for consideration by the learned Arbitrator, as per law.

8. The petition is accordingly disposed of.

9. Let a copy of this order be furnished to the learned Arbitrator by the

Registry of this Court to do the needful.

JUDGE

Comparing Assistant