

GAHC010231332023



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

Case No. : Arb.P./44/2023

N. K. CONSTRUCTION AND SUPPLIERS
A PROPRIETORSHIP FIRM HAVING ITS OFFICE AT SEUNI ALI, OPPOSITE
SBI, BORPOOL, A.T. ROAD, JORHAT-785001 (ASSAM) AND IS REPRESENTED
BY NAND KISHORE RATHI WHO IS THE PROPRIETOR OF THE PETITIONER
PROPRIETORIAL CONCERN AND IS R/O SEUNI ALI, A.T. ROAD, JORHAT,
ASSAM

VERSUS

THE UNION OF INDIA AND 4 ORS.
REPRESENTED BY THE COMMISSIONER, MINISTRY OF WATER
RESOURCES RIVER DEVELOPMENT AND GANGA REJUVENATION, 2ND
FLOOR, BLOCK-3, CGO COMPLEX, LODHI ROAD, NEW DELHI-110003

2:THE BRAHMAPUTRA BOARD
REPRESENTED BY THE CHAIRMAN
BRAHMAPUTRA BOARD
BASISTHA
GUWAHATI-781029

3:THE CHIEF ENGINEER-II
BRAHMAPUTRA BOARD
BASISTHA
GUWAHATI-781029

4:THE SUPERINTENDING ENGINEER
BRAHMAPUTRA BOARD
JORHAT CIRCLE
DISTRICT-JORHAT-785001
ASSAM

5:THE EXECUTIVE ENGINEER

BRAHMAPUTRA BOARD
LAKHIMPUR DIVISION
NORTH LAKHIMPUR
ASSA

Advocate for the Petitioner : MR G N SAHEWALLA

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

**BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO**

ORDER

Date : 14-05-2024

Heard Mr. G.N. Sahewalla, learned Senior Counsel assisted by Ms. K. Sarma, learned counsel for the petitioner and Mr. H. Gupta, learned CGC for the respondents.

2. By filing this application under Section 11(6) of the *Arbitration and Conciliation Act, 1996* (hereinafter referred to as the Act), the petitioner prays for appointment of a sole arbitrator to adjudicate the differences between the parties as stipulated in the agreement entered by the parties on 16.03.2016. Referring the Clause 25(ii) of Agreement, the learned Senior Counsel submits that the provision for appointing sole arbitrator has been stipulated and accordingly, this Court may appointment a sole arbitrator.

3. Mr. H. Gupta, learned CGC on the other hand submits that for the additional work carried out by the contractor and the claims made towards the work executed, the matter was referred to the Tender Evaluation Committee for their considered view. According to the instructions he has received, the Tender Evaluation Committee is of the view that the claims made by the contractor are beyond the provisions of the Contract Agreement and the negotiation attempted

was without any success.

4. In view of what has been submitted as recorded hereinabove, this Court deems it appropriate to appoint *Hon'ble Mr. Justice (Retd.) Mir Alfaz Ali*, a former judge of this Court to be the sole arbitrator.

5. Let a notice under Section 11 (8) of the Act be issued to the appointed sole arbitrator seeking disclosure in terms of the Sub-Section (1) of Section 12 of the Act.

6. It is further provided herein that if any difficulty is expressed on the part of the appointed arbitrator, the petitioner will be at liberty to file appropriate application for appointment of another arbitrator. But for the above observations, the arbitration petition stands disposed of.

JUDGE

Comparing Assistant