

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

ARB.A. No. 20 of 2014

Gannon Dunkerley and Co. Ltd., Through- Its Vice President- Sunil Kumar Pandey, Age- 44 Yrs, R/o. Billa No. 28, Block- 4, 2nd Floor, Eros Garden, Surajpur Road, Faridabad (Haryana)

----Applicant

Versus

M/s. Vandana Vidyut Limited, Vandana Bhawan, M.G. Road, Raipur (C.G.) 492001

---- Respondent

For Applicant	:	Mr. Sunil Otwani, Advocate
For Respondent.	:	Mr. Anurag Jha, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

09/07/2015

1. This is an application under Section 11 (6) of the Arbitration and Conciliation Act, 1996 for appointment of Arbitrator on the ground that on 28.05.2010, the applicant entered into an agreement with respondent for execution civil work T.G. Building and all type of civil works (Coal Handling Plant, Ash Hindering, DL Plant, Pump House, Intact Tube Well etc.) for 2 x 135 mega watt coal based thermal plant at village Chhuri District Korba. The applicant in compliance of the respective work order, started work for the main plant and RCC Chimney, the said work was completed in the month of November, 2013 except for stack elevator. The total value for the work executed by the applicant was for Rs.50,10,52,340/-.

2. It is further contended that the applicant from time to time submitted the bill for payment and out of bill, separate two bills amounting to Rs.11,19,03,027/- were outstanding against the respondent which were not paid by the respondent, which lead to legal notices and ultimately could not be settled. Consequently, the agreement Clause-17, which contain arbitration clause was invoked. The notice which was served to the respondent, the reply was not given and therefore, the instant petition is filed.
3. No reply has been filed by the respondent.
4. Copy of the work order is enclosed. Para-17 of the work order reads as under :-

“17. ARBITRATION.

If any dispute arises or claim whatever shall arise between the CONTRACTOR and the OWNER in relation to or in connection with or arising out of this Contract, whether during the progress of the work or after its completion, shall be resolve the same by mutual consultation. Failing resolution by mutual consultation, then the matter shall be referred to arbitration tribunal consisting of a single Arbitrator, who shall be retired Judge of the High Court. The arbitration proceedings shall be governed by the provisions of the Arbitration and Conciliation Act, 1996 and the rules framed there under and read with all statutory amendments and the modifications thereof. The award of the said single Arbitrator shall be final and binding on both the parties.”

5. Perusal of the case file would show that the parties have failed to settle the issue mutually, consequently, it lead to filing of this petition. In the eventuality in terms of Para-17, Hon'ble Justice Shri L.C. Bhadoo (Retired) is appointed to work as an Arbitrator in this case.
6. The remuneration of the arbitrator shall be settled by the respondent with mutual consent.
7. With aforesaid observation, the petition stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge