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HIGH COURT OF CHHATTISGARH, BILASPUR**Arbitration Application No. 15 of 2008**

M/s Monnet Ispat and Energy Limited, A Company incorporated and registered under the Companies Act, 1956, Having its Head Office at Monnet House, 11, Masjid Moth, Greater Kailash, Part – II, New Delhi, Through Authorized Representative

---- Petitioner**versus**

1. Steel Authority of India Limited, A Government of India Enterprise, Represented by its Chairman and Managing Director Durgapur Steel Plant, Having its Registered Office at, Durgapur Steel Plant, Durgapur, 713203
2. Bhilai Steel Plant, Bhilai, Through its Chairman Cum Managing Director, Bhilai Steel Plant Bhilai, District, Durg (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Ashish Shrivastava, Advocate
For Respondents	:	Shri Kashif Shakeel, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice**Order on Board****15/12/2016**

1. This is another unfortunate case wherein the application filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 by the Petitioner for appointment of Arbitrator is pending for more than eight years.
2. It is not disputed that the parties entered into a contract whereby the

Petitioner was to supply Silico Manganese for various plants of the Steel Authority of India Limited (for short 'the SAIL'). The case of the Petitioner is that it has not got full payment for the supplies made to SAIL. The fact that an agreement was entered into between the parties is not disputed. It also not disputed that the agreement contains arbitration clause. Three objections are raised, firstly, that the communication for appointment of Arbitrator was not properly addressed; secondly, it is alleged that before resorting to arbitration, the Petitioner should have resorted to conciliation proceedings; lastly, it is submitted that the other proceedings between the parties are pending before Shri Justice Bhattacharya, retired Judge of Calcutta High Court and therefore the matter may be referred to him.

3. As far as first objection is concerned, it is hyper-technical. Assuming that the communication was not properly addressed, after the present petition was filed, nothing prevented SAIL from appointing an Arbitrator.
4. As far as second objection is concerned, conciliation does not bar the arbitration proceedings at all. Conciliation is an in-house proceeding. This matter has been pending for more than eight years. It would not be fair to refer the petitioner to conciliation proceeding at this stage. Here it may be noted that Shri Ashish Shrivastava submits that in fact, the Petitioner had resorted to conciliation proceedings but it did not succeed.
5. As far as third objection is concerned, I am clearly of the view that this is a fresh case arising out a different contract and therefore, it would

be appropriate to appoint an Arbitrator from Chhattisgarh.

6. Since a dispute has arisen between the parties, it has to be resolved by the Arbitrator. Therefore, I appoint Shri Justice Dharendra Mishra, residing at Shyam Sadan, Tilak Nagar, Chantapara, Bilaspur, a retired Judge of High Court of Chhattisgarh, as Arbitrator in the case.
7. The Petitioner and the Respondents may file their claim/counter-claim before the aforesaid Arbitrator within a period of four weeks from today who is requested to dispose of the matter within the time prescribed in the Arbitration and Conciliation Act, 1996, as amended.
8. The parties are directed to appear before the Arbitrator on 19.01.2017.
9. Registry is directed to send a copy of this order to Shri Justice Dharendra Mishra so as to reach within one week from today.
10. The arbitration application stands disposed of.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE