

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Arbitration Application No. 79 of 2013**

Neelkant Systems Private Limited 15-17, Deendayal Complex, Main Road,
Korba, Chhattisgarh.

----Applicant

Versus

NTPC Limited, Through its General Manager, Vikash Bhawan, (Administrative
Building) PO Jamnipali, Korba, Chhattisgarh.

---Non-Applicant

For Applicant	: Shri Raj Kamal Singh, Advocate.
For Non-Applicant	: Shri B.D.Guru, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice

Order on Board**22/12/2016**

1. This is an application under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator.
2. The undisputed facts are that the Applicant entered into a contract with the Non-Applicant NTPC for capacity creation by evacuation of Dry Pond Ash from Lagoons at Dhanras Ash Dyke and filling in NTPC land between MGR Workshop and Jhariya Nalah. It is not disputed that as per the terms of the contract conditions which were made part of the agreement by mutual consent of the parties, there is an arbitration clause whereby the disputes have to be referred to the Arbitrator.
3. The Applicant claims that it has submitted some bills by which have not been considered by the Non-Applicant and therefore, it prayed to the Non-Applicant NTPC to appoint an Arbitrator. This application has not been considered by the Non-Applicant.

4. The stand of the Non-Applicant NTPC is that since final bill has not been submitted by the Applicant, Arbitrator cannot be appointed.
5. According to the Applicant, final bill has already been submitted.
6. I am not at all in agreement with the submission made on behalf of the Non-Applicant NTPC. Arbitrator is to be appointed as soon as dispute has arisen. Whether the final bills have been submitted or not, has to be decided by the Arbitrator and the Arbitrator will decide as to what is the effect, if any, of non-submission of the final bills as claimed by the Non-Applicant NTPC.
7. Since a dispute has arisen between the parties, it has to be resolved by the Arbitrator. Therefore, I appoint Shri Justice V.K.Shrivastava, residing at Ware House Road, Vidhik Sewa Marg, Bilaspur, a retired Judge of High Court of Chhattisgarh, as Arbitrator in the case.
8. The Applicant and the Non-Applicant 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.
9. The parties are directed to appear before the Arbitrator on 19.01.2017.
10. Registry is directed to send a copy of this order to Shri Justice V.K.Shrivastava so as to reach within one week from today.
11. The arbitration application is accordingly disposed of.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE