

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11715 OF 2015

Enso Care (Maharashtra) Pvt. Ltd.	...	Petitioner.
V/s.		
The State of Maharashtra and others.	...	Respondents.

Sudam Kale with Rajendra Anbhule for the petitioner.
A.A.Kumbhakoni, Sr.Advocate with A.M.Kulkarni and
Mrs.M.P.Thakur, AGP for respondent Nos.1 and 2.

CORAM : A.S. OKA AND C.V.BHADANG, JJ

DATED : 5th February 2016.

PC. :

Heard learned counsel for the petitioner and the learned counsel appearing for the respondent Nos.1 and 2. Our attention is invited to Article 31 of the concession agreement executed by and between the petitioner and the State of Maharashtra. Our attention is invited to clause- 31.1 which deals with the resolution of dispute. On the earlier date, the learned counsel appearing for the petitioner and the learned counsel appearing for the first and second respondents agreed that there is a failure to settle the dispute amicably and, therefore, a recourse will have to be taken to the arbitration clause provided in clause- 31.3 of the concession agreement.

2. By consent of the petitioner and the first and second respondents, we appoint Shri M.G.Gaikwad, a retired Judge of this Court as an Arbitrator. The petitioner and the first and second respondents agree that instead of referring the dispute to the three Arbitrators for final resolution, a reference be made to the sole Arbitrator. Hence, we pass the following order:

ORDER

(i) By consent of the petitioner and the first and second respondents, we hereby appoint Shri M.G.Gaikwad, a retired Judge of this Court as the sole Arbitrator in terms of clause 31.3 of the concession agreement. As provided in clause 31.3 of the said agreement, the arbitration proceeding shall be governed by the Arbitration and Conciliation Act, 1996;

(ii) To enable the petitioner to make an appropriate application before the learned Arbitrator for seeking interim directions, ad-interim relief granted on 30th November 2015 shall continue to operate for a period of two months from today;

(iii) All contentions on merit are kept open;

(iv) The petition is disposed of in the above terms.

(C.V. BHADANG, J)

(A.S.OKA, J)