AD-07
Ct No.16
09.01.2025
TN

FMA 448 of 2017
IA No: CAN 4 of 2024

Asim Talukdar
Vs.
Shriram Insight Share Brokers Limited

Mr. Madhusudan Saha Roy,
Ms. Tanuka Basu

....for the appellant

Mr. Shiv Ratan Kakrania,
Mr. Tanuj Kakrania

....for the National Stock Exchange Ltd.

In re: CAN 4 of 2024

1. Affidavit-of-service filed today be kept on record.

2. Learned counsel appearing for the applicant/stock exchange submits that by an order dated August 22, 2024, a coordinate Bench of this court had disposed of an appeal preferred by Asim Talukdar, the appellant, bearing FMA 448 of 2017. In the said order, the Division Bench had recorded that the learned Arbitrator was one Debasis Mukhopadhyay, who was appointed by the National Stock Exchange of India (present applicant), as per submission of learned counsel for the appellant himself. Ultimately, the appeal was disposed of by the coordinate Bench by remitting the matter to the said learned Arbitrator of the National Stock Exchange for reconsideration in terms of the impugned judgment and order.

3. Learned counsel appearing for the National Stock Exchange points out that subsequently, when the order

was sought to be communicated to the erstwhile learned Arbitrator Sri Debasis Mukhopadhyay, the postal track report indicated that the said learned Arbitrator had expired in the meantime, for which such service could not be effected.

4. Accordingly, the innocuous prayer made in the present application is to seek directios for appointment of a new Arbitrator upon furnishing a panel of the existing learned Arbitrators of the National Stock Exchange to the parties to the dispute.

5. Learned counsel appearing for the appellant/respondent in the application opposes the application and submits that the National Stock Exchange has shown recalcitrant attitude by unnecessarily delaying the matter and not informing about the demise of the learned Arbitrator to the appellant.

6. However, we do not find any adversarial component in the present application, since what the National Stock Exchange is seeking is only to facilitate a proper implementation of the order dated August 22, 2024 which enures to the benefit of the parties to the dispute, including the present appellant.

7. In view of the demise of the erstwhile learned Arbitrator, the order dated August 22, 2024 can only be implemented by appointment of a new Arbitrator.

8. Accordingly, CAN 4 of 2024 is disposed of by directing the applicant/National Stock Exchange of India to

furnish a panel of the existing Arbitrators of the said stock exchange to both the parties to the dispute within a fortnight from date.

9. Upon such names being furnished, the parties shall agree to a common name of an Arbitrator from the said panel for such appointment. Such communication regarding acceptance shall be intimated by the parties to the National Stock Exchange within three weeks thereafter.

10. In the event no such communication is made by the parties to the dispute and/or in case of disagreement between the parties as to such appointment, the National Stock Exchange, after awaiting the said period of three weeks, shall appoint one of the proposed Arbitrators from such panel as the new Arbitrator and intimate about such appointment to both the parties to the dispute within a fortnight thereafter.

11. It is made clear that upon the fresh appointment being made, the newly appointed Arbitrator shall step into the shoes of the erstwhile learned Arbitrator and shall comply with the order dated August 22, 2024 passed in FMA 448 of 2017 without any deviation from the same.

12. There will be no order as to costs.

13. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

14. The parties and all concerned shall act on the basis of the server copy of this order, without insisting upon prior production of a certified copy thereof, for the purpose of compliance.

(Sabyasachi Bhattacharyya, J.)

(Subhendu Samanta, J.)