

HIGH COURT OF CHHATTISGARH, BILASPUR**Arbitration Application No.76 of 2016**

Empowertrans Pvt. Ltd. Kokila Residency, 1st Floor, Ananta Vihar
Pokhriput, Bhubneshwar, Odisha - 751 020 Through its Director:-
Mr. V. Sridhar, Aged 44 Years, S/o Shri A. Venkatachalam

----Applicant

Versus

Vandana Vidhyut Ltd. Vandana Bhavan, MG Road, Raipur - 492 001

---- Respondent

For Applicant	:	Mr.Raja Sharma, Advocate
For Respondent	:	None present though served

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

29/08/2017

1. This is an application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter called as 'Act of 1996') for appointment of arbitrator.
2. As per clause 22 (2) of the Agreement, on 18th January, 2016 the petitioner appointed Mr.P.K. Ghosh to be their arbitrator and thereafter on 5th February, 2016 the respondent appointed Mr.Anurag Jha to be their arbitrator. As per terms of the arbitration clause, each party shall be entitled to nominate one arbitrator and the two arbitrators so nominated shall nominate a third presiding arbitrator, which they failed to appoint Presiding Arbitrator till the date of filing of the application on 24.11.2016.
3. Learned counsel for the applicant would submit that despite the parties have appointed their arbitrators have failed to appoint Presiding Arbitrator in terms of Section 11 (4) (b) of the Act of

1996, therefore, this Court has the jurisdiction under Section 11(6) of the Act of 1996 to appoint the sole arbitrator to adjudicate the dispute arisen between the parties and this High Court is an appropriate Court.

4. None present for the respondent though served.
5. I have heard learned counsel appearing for the petitioner and perused the documents appended with the application.
6. Arbitrators appointed by the parties have failed to appoint the Presiding Arbitrator in terms of Section 11 (4) (b) of the Act of 1996 as third arbitrator has to be appointed within 30 days from the date of their appointment. Therefore, this Court has the jurisdiction to appoint the sole arbitrator in terms of Section 11 (6) of the Act of 1996.
7. Clause 22.2 of the Agreement provides arbitration clause which states as under:-

“22.2 In the event that the parties failing to resolve any disputes amicable the same shall be referred to arbitration in accordance with the Arbitration & Conciliation Act 1996 with all modifications and re-enactments thereto, as is prevalent in India. Each party shall be entitled to nominate one arbitrator and the two arbitrators so nominated shall nominate a third presiding arbitrator. The arbitrators shall give a reasoned award. The proper law for the purpose of Arbitration shall be Indian Laws.”

8. Accordingly, it is held that this Court is an appropriate Court for appointing an arbitrator for resolving the dispute existing between the parties and there is an arbitral agreement. Therefore, in exercise of my power under Section 11(6) of the Act of 1996, I hereby appoint Hon'ble Mr.Justice Dhirendra

Mishra, Former Judge, High Court of Chhattisgarh, resident of Tilak Nagar, Bilaspur, District Bilaspur, Chhattisgarh as the sole arbitrator to adjudicate the dispute that has arisen between the parties, in accordance with the provisions of the Act of 1996.

- 9.** Registry is directed to communicate this order to learned sole arbitrator- Hon'ble Mr. Justice Dhirendra Mishra, Former Judge, High Court of Chhattisgarh forthwith to enable him to enter upon the reference and decide the matter as expeditiously as possible after complying with Section 12 of the Act of 1996.
- 10.** The arbitration application is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)

Judge

B/-