

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Arbitration Application No. 52 of 2015**

M/s Pragati Construction Company 101, Bansal Public Building, Pandri
Near 36 Mall opposite Gemco, NH-06 Labhandi Raipur through its Partner
Jayendra Singh Bhandari S/o Man Singh Bhandari, aged about 38 years,
R/o-15 Khushi Vatika, VIP Road, Amlidih, Raipur (C.G.)

---- Petitioner/Applicant**versus**

1. Registrar, Indira Gandhi Krishi Vishvavidyalaya, Raipur Krishak Nager
Labhandi, Raipur 492006 (C.G.)
2. Engineer-in-Charge/SPP Indira Gandhi Krishi Vishvavidyalaya, Raipur
Krishak Nager Labhandi, Raipur 492006 (C.G.)

---- Respondents

For Petitioner	:	Shri Anand Dadariya, Advocate
For Respondents	:	Shri Shashank Thakur, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice**Order on Board****20/01/2017**

1. This application under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') has been filed by the Petitioner for appointment of Arbitrator.
2. The Petitioner entered into a contract for construction of various works of construction with the Respondent University. Arbitration Clause in the present case reads as follows:

“ARBITRATION CLAUSE

Clause-32 :- Except as otherwise provided in this contract all question and dispute relating to the meaning of the specification

drawings and instructions herein before mentioned and as to thing what so ever, in any way arising out of or relating to the contract designs, drawings, specification estimate.

Concerning the work or the execution of failure to execute the same, whether arising during the progress of the work or after the completion or abandonment there of shall be referred of 30 day's of such occurrence. There upon the S.P.P. shall give his written in instruction and/or decision with in a period or 60 day's of such request. This period can be extended by mutual consent of the parties.

Upon receipt of written instructions or decisions the parties shall properly proceed without delay to comply such instructions of decision? If the S.P.P. fails to given his instructions or decision in writing within a period of 60 days is a mutually agreed time after being requested if the parties are aggrieved against the decision of S.P.P. The parties may within 30 days prepare an appeal to the Hon'ble Vice Chancellor who shall afford an opportunity to the parties of being heard and to offer evidence in support of his appeal. The Vice Chancellor will give his decision with 90 days if any party in not satisfied with the decision of the Vice Chancellor he can refer such disputes for arbitration by an Arbitration Board to be constituted by the State Govt. which shall consist of three members of when one shall be chosen from among the officers belonging the department not below the rank of S.E. one Retired Chief Engineer of any Technical department, and one serving officer not below the rank of S.E. belonging to another technical department.”

3. The Petitioner placed on record the material to show that in terms of arbitration clause, he first approached to S.P.P., but the S.P.P. did not give any decision. Thereafter the Petitioner approached the Vice Chancellor within 90 days. Once the Vice Chancellor did not give any decision within 90 days, the Petitioner could have approached the

State Government to constitute the Arbitration Board in terms of the Agreement. This has not been done by the Petitioner.

4. Therefore, this application is rejected with liberty reserved to the Petitioner to move an application to the Principal Secretary, Department of Higher Education who shall be deemed to be exercising the power of the State Government and on such application being filed, the Principal Secretary should constitute a Arbitral Tribunal within a period of 45 days of the receipt of the application. If the Principal Secretary does not constitute the Arbitral Tribunal within a period of 45 days, liberty is reserved to the Petitioner to approach this Court under Section 11 (6) of the Arbitration and Conciliation Act, 1996 for appointment of Arbitrator.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE