

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 6212 OF 2017**

Jawahar Speakers and Mandap Contractor
Tuljapur ...Petitioner

vs.

The Collector Solapur and District
Election & Ors. ...Respondents

Mr. Umeash Mankapure for the Petitioner

Mr. Sandeep Babar, AGP for the Respondent State.

**CORAM : SHANTANU KEMKAR &
M.S. SONAK, JJ.
JULY 18, 2017**

PC.:

The grievance of the petitioner is that though he has remedy to approach the court for appointment of the Arbitrator in view of clause 3(b) of the Agreement at Exhibit."K", but since the Collector has already adjudicated the matter vide order dated 18.3.2016 and 29.3.2016, it will be futile to get the Collector being appointed as Arbitrator in terms of the agreement.

2. We have gone through clause 3(b) of the agreement which clearly provides that in case of dispute and differences whatsoever between the parties to the agreement, shall be referred to the Collector and District Election Officer or any officer authorized by him and that the arbitration proceedings shall be conducted in accordance with the provisions of Arbitration and Conciliation Act, 1996. Therefore, in our considered view the petitioner has got remedy of getting the

arbitrator appointed under section 11 of the Arbitration and Conciliation Act, 1996.

3. We are not convinced with the submissions made by the learned counsel for the petitioner that since the Collector has decided the matter, in the circumstances, the learned Judge dealing with the arbitration proceedings will not consider the petitioner's contention of not appointing the Collector as an arbitrator, as we are sure that the learned Judge while passing the order relating to appointment of arbitrator will consider the petitioner's contention to appoint any other arbitrator in place of the Collector and decide the matter in accordance with the law.

4. In the circumstances, the petition is disposed of. All contentions are kept open. Needless to say that any observations made hereinabove shall not come in the way in the proceedings for appointment of arbitrator.

(M.S. SONAK, J.)

(SHANTANU S. KEMKAR, J.)