

IN THE HIGH COURT OF JUDICATURE AT PATNA
Request Case No.88 of 2018

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M/s Indus Integrated Information Management Limited a Company Incorporated Under the Companies Act 1956 having its registered Office at AE-369, Salt Lake, Sector-1, Kolkata through its Authorized Signatory Amit Kumar, Son of Late Ayodhya Prasad Singh, Resident of 101, R.J. Enclave, Road No. 12, Gokulpath, Patel Nagar, P.S.-Shastri Nagar, District-Patna-800023.

... .. Petitioner/s

Versus

1. Bihar Mahadalit Vikas Mission through its Mission Director 2nd Floor, Block-III, Sachivalaya Extension Building, Old Secretariat, Patna-800015.
2. The Mission Director, Bihar, Mahadalit Vikas Mission, 2nd Floor, Block-III, Sachivalaya Extension Building, Old Secretariat, Patna-800015.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Advocate Mr. Vikas Kumar, Advocate
For the Respondent/s	:	Mr. Rakesh Narayan Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 11-07-2018

Invoking the jurisdiction of this Court under Section 11 (6) of the Arbitration and Conciliation Act, 1996, this application has been filed.

An agreement was entered into between the parties on 20th of November, 2013 for conducting the examination and certification of Microsoft Learning under the SCA to SCSP of Bihar Maha Dalit Vikas Mission, Bihar and as per the agreement 6080 Maha Dalit candidates were to be benefited by the scheme. In the execution of the scheme and the agreement as various disputes have arisen, a claim was made by the petitioner and



when the claim was not considered, this application has been filed invoking the jurisdiction of this Court and by referring to Clause 22 of the agreement which reads as under:-

“22. In case of any dispute or differences arising out of or in relation to this agreement either party by giving a clear notice of 30 days may be requested to the Mission Director of the BMVM to refer the dispute for arbitration of himself or any officer nominated by him in accordance with the provisions of Arbitration and Conciliation Act 1996; the award of the Mission Director or the officer nominated by him in his behalf shall be final and binding on the parties. The parties shall not raise any objection on the ground that the Mission Director has dealt with the matter in his official capacity. Disputes may be referred to arbitration in accordance with the law relating to arbitration in India.”

this application has been filed.

Learned counsel appearing for the respondent on notice has filed a counter affidavit and in the counter affidavit there is denial of the claim of the petitioner primarily on the ground that he did not execute the work properly. He committed certain acts of commission and omission because of which an F.I.R. has been lodged and further it is stated that all dues payable to him has been paid. That apart, inviting my attention



to a judgment of the Supreme Court in the case of **Trisuns Chemical Industry Vs. Rajesh Agarwal and others- A.I.R. 1999 Supreme Court 3499** learned counsel argues that the application is liable to be rejected.

However, there is no objection to the fact that Clause 22 of the agreement contemplates an arbitration agreement. The objections raised in the counter affidavit are pertaining to the claim made by the petitioner touching the merits of the dispute between the parties and at this stage in a proceeding under Section 11(6) this Court is not required to go into the merits of the claim made, adjudicate it and pass an order. It is for the Arbitrator to be appointed to look into all these factors and decide the claim of the petitioner and if it is found not to be tenable, reject it on the basis of the inquiry to be conducted. As far as the judgment of the Supreme Court relied upon in the case of **Trisuns Chemical Industry** (supra) is concerned, the judgment is not applicable in the facts and circumstances of the case. The judgment pertains to jurisdiction available to a Court under Section 482 Cr.P.C. for quashing an F.I.R. on the ground that the allegation made in the F.I.R. is subject matter of dispute before an Arbitrator. In this proceeding, the petitioner is not praying for quashing of the



F.I.R. He only seeks invoking the jurisdiction under Section 11 (6) for implementing the arbitration agreement and referring the matter for adjudication by an Arbitrator.

Finding there to be dispute existing between the parties and an arbitration clause also in existence between the parties, the application is allowed. Hon'ble Justice (Retired) Sri Sadanand Mukherjee, a former Judge of this Court, is appointed as Arbitrator to adjudicate the dispute between the parties.

(Rajendra Menon, CJ)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	19.07.2018
Transmission Date	

