

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.6348 of 2018

ORDER:

Petitioner came to be awarded contract of transportation of Crushed 'D' Grade Coal from OC-IV Section of PK-OC, Manuguru Area to KCHP by the respondent Company and entered an agreement bond, dated 19.07.2016. Alleging that the petitioner had failed to perform the said contract, the respondent terminated the same vide order, dated 30.10.2017. Challenging the same, the petitioner filed this Writ Petition.

Heard learned counsel for the petitioner.

Learned Standing Counsel for the respondent Company opposes the Writ Petition on the ground that the petitioner and the respondent are bound by the terms set out in the agreement bond, dated 19.07.2016, which contains an arbitration clause, being Clause No.10.

Having considered the above, it is to be noted that there is no dispute that the agreement bond, dated 19.07.2016, was entered between the petitioner and the respondent and that in the said agreement bond, there is a dispute resolution mechanism, such as, arbitration, and Clause No.10 thereof reads as under:

10. ARBITRATION

Normally, all disputes should be settled by negotiations between the Company and the concerned parties.

In case any dispute/difference is not settled through negotiations, the respective parties can seek remedy by Arbitration by invoking the same within 120 days of dispute.

- (a) The Arbitrator(s) will be appointed to resolve the disputes between the parties. The Chairman & M.D. of the S.C.Co.Ltd is having absolute power to appoint a single Arbitrator or more than one Arbitrator or to refer the dispute to the Institutional Arbitration at his discretion and his decision is final and binding on the parties. The appointed Arbitrator(s)/ Institutional Arbitration should pass a reasoned award.
- (b) If any of the Arbitrators appointed by the Chairman & M.D. of the S.C.Co.Ltd., is unable to continue as an Arbitrator for any reasons whatsoever or if the Chairman & M.D. of the S.C.Co.Ltd., for the reasons to be recorded in writing thinks fit for appointment of a new Arbitrator in the place of existing Arbitrator, he is having a power to do so. If such a new Arbitrator is appointed, he can either continue the arbitration proceedings from the stage where the earlier Arbitrator discontinued his proceedings or alternatively the new Arbitrator may start proceedings de novo if the circumstances warrant him to do so.
- (c) The parties bear the costs of the Arbitration equally.
- (d) Failing to invoke Arbitration clause within 120 days of dispute, the matter is to be decided by Civil Courts at Khammam District in Telangana State alone and not any other place.

The Clause as set out above is wide enough to take in its scope with respect to the termination of the contract.

In those circumstances, leaving it open to the petitioner to workout the remedies in terms of Clause No.10 of the agreement bond, dated 19.07.2016, the Writ Petition is closed, as it is well settled that in the cases where there is a provision for arbitration, the Courts shall relegate the parties to avail the remedies as agreed to in the agreement (See **P. Anand Gajapathi Raju v. P.V.G. Raju (Died) and others {2000(4) SCC 539}**).

Miscellaneous Petitions, if any pending shall stand closed.

There shall be no order as to costs.

28th FEBRUARY, 2018.

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CHALLA KODANDA RAM, J

