

**HON'BLE THE CHIEF JUSTICE
THOTTATHIL B. RADHAKRISHNAN**

ARBITRATION APPLICATION No.116 OF 2017

ORDER (ORAL):

Heard the learned counsel for the applicant and the learned counsel for the respondent.

2. This is an application under Section 11(2) and (6) of the Arbitration and Conciliation Act, 1996; hereinafter referred to as 'Act'.

3. Existence of an arbitration agreement is not in dispute.

Clause 6.0 reads as follows:

“6.0 Dispute resolution

If a dispute of any kind whatsoever arises with Turkey agency in connection with or arising out of this order the matter in dispute shall be settled amicably through offices of Project Controller/project Manager of MEIL failing which the dispute matter shall be finally resolved, in accordance with The Arbitration & Conciliation Act 1996 by a sole Arbitrator to be nominated by the Chairman and Managing Director of MEIL, Hyderabad, the venue shall be Hyderabad. This order is governed as per laws of India and the jurisdiction of only Hyderabad courts shall apply.”

4. It is also not in dispute that there is a failure to amicably settling the dispute between the parties. Obviously, therefore, an arbitrator had to be appointed. The arbitration agreement leaves it to the Chairman and Managing Director of the respondent - MEIL to appoint a

sole arbitrator. It is an admitted case that a person has been appointed as arbitrator. The question whether that person is fit to be an arbitrator is not a matter which this Court should go into under Section 11(6) of the Act.

5. To our query, the learned counsel for the applicant submitted that an issue has been raised before the arbitrator touching the jurisdiction and also by pleading that the arbitrator so appointed should not proceed further with the arbitral proceedings. It is submitted that the said issue is pending consideration with the arbitrator for hearing and interim award.

6. In the aforesaid factual matrix, no measure needs to be taken under Section 11(6) of the Act.

7. Hence, the Arbitration Application is closed without prejudice to any proceedings before the arbitrator as noted above.

As a sequel thereto, Miscellaneous Applications, if any, pending in the Arbitration Application stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

August 24, 2018.
PV