

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.165 of 2018

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M/s Golkonda Engineering Enterprises Limited having its registered office at
1-7-241/11/D, S.D. Road, Secunderabad- 500003, Telangana, India through
its Managing Director Sri G.P. Surana

... .. Petitioner/s

Versus

East Central Railway Through Its Managing Director and Ors

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ashhar Mustafa, Adv. Mr. Falakyar Askari, Adv. Mr. Talib Mustafa, Adv.
For the Respondent/s	:	Mr. Dr. Anand Kumar, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

26-04-2019 Heard learned counsel for the applicant and learned
counsel for the Railways.

The request is for appointing of an arbitrator keeping
in view the arbitration clause contained in the agreement dated
20th May, 2015. Clause-2900 with regard to the standard form of
arbitration provides for the appointment of an arbitrator. The
applicant served a legal notice on 31st July, 2016 raising his
demand, but aggrieved by the inaction of the respondents the
applicant gave a notice under Section 21 of the Arbitration and
Conciliation Act, 1996 on 9.3.2018. In spite of expiry of the
statutory period, no arbitrator was appointed and, hence, this
request case was preferred on 29.11.2018.

A counter affidavit has been filed and in paragraph 7



it has been stated that the arbitrator was appointed on 27.12.2018 and, therefore, the application deserves to be rejected.

We have considered the submissions raised and keeping in view the law laid down by the Apex Court in the case of M/s. Deep Trading Company Vs. M/s. Indian Oil Corporation & Ors., AIR 2013 SC 1479, the subsequent appointment of the arbitrator after the request case has been preferred before this Court does not take away the right of the applicant to seek the appointment of an arbitrator.

Accordingly, the application is allowed and disposed of.

Shri D.K. Sharma (a retired District Judge) is appointed as the sole Arbitrator to enter upon the dispute and to render his award in terms of the 1996 Act for which requisite information shall be dispatched to the Arbitrator by the registry and the parties shall appear before the Arbitrator on 27th May, 2019 who shall thereafter proceed to deal with the matter in accordance with law.

(Amreshwar Pratap Sahi, CJ)

K.C.Jha/-

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