

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
APPLICATION FOR APPOINTMENT OF
ARBITRATOR NO.15 OF 2019

Premier Builders Goa Pvt. Ltd. Applicant.

Versus

The Executive Engineer, WD III,
Govt. of Goa, Ponda. Respondent.

Mr. Jatin Ramaiya, Advocate for the Applicant.

Mr. D. J. Pangam, Advocate General with Ms. Ankita Kamat, Addl.
Govt. Advocate for the Respondent.

Coram : M.S. Sonak, J.

Date : 23rd August, 2019.

P.C.:

Heard Mr. J. Ramaiya for the Applicant and Mr. D. Pangam, learned Advocate General for the Respondent.

2. This is an application seeking appointment of an Arbitrator, since, according to the Applicant, disputes have arisen in relation to the Agreement dated 29th March, 2018. Mr. Pangam, learned Advocate General points out that the Agreement, in its clauses 23 and 44, contemplates reference of dispute to an Adjudicator in the first instance. He submits that it is only if the parties are not satisfied with the decision of the Adjudicator, can the issue of appointment of an arbitrator arise.

3. Mr. Ramaiya, learned Counsel for the Applicant, on the basis of the instructions from the Applicant, states that the Applicant is agreeable to have the reference made to an adjudicator in the first instance. Mr. D. Pangam, learned Advocate General, on behalf of the Respondent states that the period of 14 days, referred to in clause 24.1 of the Agreement will be waived by the Respondent, so that an effective reference can be made to the Adjudicator.

4. Learned Counsel for the parties suggest appointment of Engineer Vincent Gracias, as an Adjudicator in the present matter. They have, in fact, placed on record a letter from the Institution of Engineers (India), nominating Engineer Vincent Gracias as the Adjudicator. Bio-data of Engineer Vincent Gracias accompanies the said communication dated 25th June, 2019 issued by the Institution of Engineers.

5. Accordingly, with the consent of the parties, Engineer Vincent Gracias is appointed as an Adjudicator in terms of the Agreement dated 29th March, 2018 and the Applicant is at liberty to refer the dispute to the Adjudicator within a period of 4 weeks from today. If such dispute is referred by the Applicant within 4 weeks from today, the Adjudicator so appointed is requested to assist in resolution of the same, in accordance with the terms and conditions of the Agreement.

6. In case the parties are not satisfied with the adjudication by the Adjudicator, they are at liberty to take further steps as contemplated under the Agreement dated 29th March, 2018.

7. The Application for Appointment of Arbitrator is, accordingly, disposed of in the aforesaid terms.

8. All concerned to act on the basis of an authenticated copy of this order.

M.S. Sonak, J.