

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

ARBITRATION APPLICATION No.129 of 2016

ORDER:

By way of this application filed under Section 11 of Arbitration and Conciliation Act, 1996 (for short "the Act") the applicant seeks appointment of an Arbitrator for resolution disputes arising under the agreement dated 06-06-2014 entered into by and between them.

The case of the applicant is that in pursuance of the tender notification issued by respondent, petitioner was awarded work to carry out 3D Seismic job Services in Jharsuguda Region, Odisha and after completion of work, certain disputes arose with regard to payment of 'standby charges' and expenditure incurred for 'cutting of branches' etc.,. On that the applicant issued notice dated 29-06-2016 by invoking arbitration clause No.18 in the general conditions of contract for appointment of independent arbitrator. As there is no response from the respondent, the present application is filed for appointment of an independent arbitrator by exercising powers under Section 11(6) of the Act.

In the counter affidavit filed by respondent, in para No.10 it is stated as under:

"it is respectfully submitted that as per the general conditions of tender notification, which forms part and parcel of contract, any dispute has to be resolved by referring the same to a sole Arbitrator. As per the agreement, there is a clause of referring such disputes to the sole arbitrator who is to be nominated by Director General, CSIR. It is necessary to submit that as per the terms of contract, an attempt for amicable settlement can be made before invoking the arbitration clause. Accordingly efforts had been made by the Respondent organization for

settlement. In fact, it was communicated to him that the amount of Rs.4.45 lakhs which was deducted from the payments due to him for the loss of equipment would be duly recommended. But the applicant has not agreed for the same. After the failure of the amicable settlement, when a sole arbitrator was being identified, the applicant has filed this case and notices are received by us. Therefore the averment that we have not responded to his notices is false and untrue. It is to submit that the Respondent Organization has made every effort for appointment of Arbitrator. However, it is submitted that we are willing to submit to arbitration to any sole Arbitrator appointed by this Hon'ble Court and therefore, this Hon'ble Court may be pleased to appoint a sole Arbitrator to resolve the disputes between the Applicant and the Organization. It is therefore, prayed that this Hon'ble Court may be pleased to dismiss the Arbitration Application in the interest of justice."

Heard both sides. Both counsel have stated that an independent Arbitrator of the rank of District Judge may be appointed.

In view of above facts and circumstances stated above and submissions of counsel for either side the application needs to be allowed.

Accordingly, the arbitration application is allowed appointing Sri M.Rajamouli Sarma, Retired District Judge, H.No.1-10-40 & 47, Flat No.204, Sai Krupa Apartments, Ashok Nagar, Street No.2, Hyderabad as the sole Arbitrator for resolution of dispute(s) between the applicant and respondent, arising out of agreement dated 06-06-2014, in accordance with the provisions and mandate of the Act of 1996. The learned Arbitrator shall be entitled to fees as per the rates specified in the Fourth Schedule to the Act of 1996, inserted by Act 3 of 2016 with effect from 23-10-

2015, which shall be borne by both parties in equal measure. No order as to costs.

A.RAJASHEKER REDDY,J

18-10-2019

Nvl



