HIGH COURT OF TRIPURA
AGARTALA

Arb. P. No. 18/2019

M//s. Delux Engineering, Through Its Proprietor Sri Narayan Debnath.

----Petitioner(s)

Versus

Tripura Road Transport Corporation (TRTC) and another.

----Respondent(s)

For Petitioner(s)	:	Mr. Samar Das, Advocate.
For Respondent(s)	:	Mr. K. Bhattacharjee, Advocate.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

O R D E R

07/02/2020

Petitioner is a proprietary concern. The petitioner has prayed for appointment of an arbitrator to resolve dispute between the petitioner and respondent, Tripura Road Transport Corporation (hereinafter to be referred to a Corporation) arising out of an agreement dated 25.09.1995.

An agreement was executed between the petitioner and the Corporation on 25.09.1995 for repair, renovation and maintenance of the buses of the Corporation for a period of one year. This agreement has an arbitration clause provided as under:

> ***"9. In case of any dispute or difference arising between the parties in relation to or out of this contract the same shall be referred to the Commissioner to the Government of Tripura, Transport Department, Agartala for arbitration and such arbitration proceedings shall be governed by the provisions of the Indian Arbitration Act, 1940 and the proceedings of the Arbitrator shall be final and binding on both the parties. Finalization of dispute, if any, in course of this deal shall be restricted to the legal jurisdiction of Agartala only."***

According to the petitioner during the course of execution of the said agreement disputes arose between the parties. The Corporation did not make payment on the agreed terms. Principal

sum of Rs.7,72,640/- remains payable till date. The petitioner had previously filed the Writ Petition No.465/1999 which was withdrawn on 16.07.2008 on account of arbitration clause. Thereafter, the petitioner issued notices to the Corporation for payment failing which for appointment of an arbitrator. Since the issue remains unresolved, the petitioner filed the present petition for appointment of an arbitrator.

In my opinion, the application for appointment of an arbitrator as well as the cause for which the arbitrator is sought to be appointed are both hopelessly barred by limitation. Even if the entire period of pendency of the writ petition is excluded from the period of limitation on the ground that the petitioner was bona fide pursuing remedies before a Court with jurisdiction, such petition was disposed of on 16.07.2008. The arbitration petition is filed nearly ten years later. No amount of representations notices of demands made to the Corporation would save the period of limitation. Even under the amended position by virtue of insertion of sub-section (6A) to Section 11 of the Arbitration and Conciliation Act, 1996, such as stale demand for appointment or an arbitrator cannot be entertained.

Petition is dismissed. Pending application(s), if any, also stands disposed of.

(AKIL KURESHI),CJ.

Dipankar