

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

AP/385/2020

SRI RAM CONSTRUCTIONS
VERSUS
MC NALLY BHARAT ENGINEERING COMPANY LTD.

BEFORE:

The Hon'ble JUSTICE ASHIS KUMAR CHAKRABORTY
Date : 24th December, 2020.

Appearance:

Mr. Debangshu Dinda, Adv.
Mr. Zeshan Haque, Adv.
Mr. Rabindra Kumar Mitra, Adv
... for the petitioner.

Mr. Abhijit Sarkar, Adv.
Ms. Radhika Misra, Adv.
... for the respondent.

The Court: In this application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (in short, "the Act of 1996"), the petitioner has prayed for appointment of a sole Arbitrator to adjudicate the disputes arisen between the parties relating to the letter of award dated January 12, 2016 issued by the respondent in favour of the petitioner to carry out the work for construction of R&R Colony for NTPC Pakri Barwadih Coal Mining Project at Barkagaon, Hazaribagh (Jharkhand). The terms and conditions under which the petitioner was required to carry out the work under the said letter of award are those stipulated in

the Special Conditions of Contract, being Annexure 'F' to the petition. Clause 24 of the Special Conditions of Contract contemplated that all disputes and differences arisen between the parties thereto shall be first attempted to be sorted out amicably, failing which the disputes and differences shall be referred to arbitration by a sole Arbitrator to be nominated by the respondent.

It is the respondent who issued the notice dated June 30, 2020, under Section 21 of the Act of 1996 calling upon the petitioner to agree to the appointment of an Advocate of this Court as the sole Arbitrator. The petitioner by its letter dated August 8, 2020 declined to refer the disputes to the person nominated by the present respondent.

Learned Counsel appearing for the respective parties have also submitted that the existence of the arbitration agreement between the parties, as well as the fact that the disputes and differences have arisen between the parties, are not in dispute. Both parties pray for appointment of a sole Arbitrator by this Court.

Considering the materials on record as well as the submissions made by the Counsel appearing for the respective parties, the petitioner's present application is allowed.

Mr. Surajit Nath Mitra, Senior Advocate of Bar Library Club (First Floor), High Court at Calcutta is appointed as the sole

Arbitrator to adjudicate the disputes arisen between the parties relating to the letter of award dated January 12, 2016 read with the relevant purchase orders issued by the respondent. The Arbitrator shall be free to fix his fees which shall be borne by the parties in equal shares. The Arbitrator will be free to engage the secretarial staff whose remuneration shall also be borne by the parties in equal shares.

Since the respondent was not called upon to file any affidavit, the allegations made in the petition against it, if any shall be deemed not to have been admitted.

With the above directions the application, AP/385/2020 stands disposed of.

Urgent certified website copies of this order, if applied for, be made available to the parties subject to compliance with requisite formalities.

(ASHIS KUMAR CHAKRABORTY, J.)

mg