

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.15 of 2021

1. M/s Ambe Fastners Private Limited Office at Patna Industrial Estate Patna through its Director Nikhil Jaiswal, son of Late Narsingh Prasad Jaiswal, resident of 108/A, New Patliputra Colony, P.O.- Patliputra, P.S.- Patliputra, Patna.
2. Nikhil Jaiswal Son of Late Narsingh Prasad Jaiswal resident of 108/A, New Patliputra Colony, P.O.- Patliputra, P.S.- Patliputra, Patna.

... .. Petitioner/s

Versus

1. The Union of India Through the Secretary Ministry of Commerce North Block New Delhi.
2. The Secretary Ministry of Commerce North Block New Delhi.
3. The General Manager Central Railway Bhubaneshwar, Orissa.
4. The Principal Chief Engineer Central Railway Bhubaneshwar.
5. The Deputy Chief Engineer/TP. Central Railway Bhubaneshwar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sanjeev Kumar Mishra, Advocate Ms. Manini Jaiswal, Advocate
For the Respondent/s	:	Mr.Dr. K. N. Singh (ASG)
For the Railway		Mr. D.K. Sinha, Sr. Advocate Mr. Bijay Kr. Sinha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT
Date : 08-12-2021

In the Memo of parties, particulars of Respondent
Nos. 3, 4 and 5 need to be amended and be read as East Coast
Railway, Bhubaneshwar, Orissa in place of Central Railway,
Bhubaneshwar, Orissa.

Registry to make necessary correction in the
memo. of parties both on the digital as also physical file.

Shri Narottam Singh Vikey, Principal Chief



Engineer, East Coast Railway, Bhubaneshwar, is present in the Court.

Apology on the part of the said respondent is accepted.

This application under Section 11(6)(c) of the Arbitration and Conciliation Act, 1996 has been filed praying for appointment of an Arbitrator to adjudicate the dispute between the parties.

Without going into the allegations and counter allegations made by the parties with respect to the act and conduct of the arbitrator already appointed, in terms of the dispute resolution mechanism provided under the written agreement entered into between the parties, learned counsel for the parties rather graciously agree for the substitution of the name of the arbitrator already appointed, with that of Shri Vipin Jha, IRSEE, whose name stands mentioned in the panel of retired officers, prepared by the respondent Railways. It is not in dispute that under the dispute resolution mechanism only such of those officers can be nominated as arbitrators who are empanelled.

Today, there is no dispute about-(a) the legality, validity and binding effect of a written agreement/purchase



order dated 3rd of April, 2018 entered into between the parties to the lis; (b) the existence of arbitration clause contained therein; (c) the existence of dispute(s) arising there from; (d) the dispute arisen out of the agreement being civil in nature; (e) no legal impediment in the adjudication of the dispute by the learned Arbitrator.

As such, the name of the arbitrator already appointed is substituted with that of Shri Vipin Jha, IRSEE. The newly appointed arbitrator shall adjudicate the disputes inter se the parties out of the agreement/purchase order dated 3rd of April, 2018 as also any other purchase orders issued, subject matter of the present petition.

All pleas and issues raised, on merits, are left open to be considered and decided by the learned Arbitrator.

Learned Arbitrator shall be entitled to fee as per the prescribed schedule of the Act.

Since the dispute arises out of an agreement of the year 2018, the hearing be expedited.

Parties are directed to fully cooperate and not take any unnecessary adjournment.

The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode,



unless the parties otherwise mutually agree to meet in person i.e. physical mode.

It is expected of the learned Arbitrator to decide the issues expeditiously.

Joint Registrar (List) is directed to communicate the order to the learned Arbitrator.

Learned counsel for the parties to communicate the order to the learned Arbitrator. Also, parties are directed to appear before him, through physical/digital mode on 05.01.2022 and apprise him of passing of this order.

Parties shall file their statement of claims before the learned Arbitrator on such date of hearing which he may fix, as per mutual convenience.

The Request Petition stands disposed of in the above terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.12.2021
Transmission Date	

