

S/L 8
02.07.2021
Court. No. 19
GB

W.P.A. 10671 of 2021

The Chief General Manager, West Bengal
Telecom Circle, BSNL
Vs.
Union of India & Ors.

(Through Video Conference)

*Mr. Rajib Mukherjee,
Ms. Supriya Dey Barat,
Ms. Shreyasi Bhaduri.*

...for the Petitioner.

*Mr. Avinash Kankani,
Mr. T. Chakraborty.*

This writ petition has been filed challenging an award dated February 3, 2021 passed in terms of Section 31 of the Arbitration and Conciliation Act, 1996. There were some disputes with regard to the contract between BSNL and a contractor. The petitioner before this Court is the Chief General Manager, West Bengal Telecom Circle, BSNL. The arbitration was in terms of the provisions of Section 18(3) of the Micro, Small and Medium Enterprises Development Act, 2006. The provision is set out hereunder.

“18. Reference to Micro and Small Enterprises Facilitation Council.-

(3) Where the conciliation initiated under sub-section (2) is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for arbitration or refer it to any institution or centre providing alternate dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall then apply to the dispute as if the arbitration was in pursuance of an arbitration

agreement referred to in sub-section (1) of section 7 of the Act.”

Thus, once the dispute is referred to arbitration, the law makes it clear that the provision of the Arbitration and Conciliation Act, 1996 would be applicable. The award was passed. The petitioner has challenged such an award. In my opinion, a writ petition challenging such an award, which according to law applicable was an award in terms of the Arbitration and Conciliation Act, 1996 is not maintainable.

Moreover, Section 19(1) of the Micro, Small and Medium Enterprises Development Act, 2006 also provides that no application for setting aside the award made by the council or by any institution to whom the dispute has been referred will be entertained without the applicant depositing of 75 per cent of the decretal or awarded amount. In this case 10 crores has been awarded.

The writ petition is not maintainable for the reasons stated hereinabove.

The petitioner is at liberty to approach the appropriate forum in accordance with law.

Accordingly, the writ petition is disposed of.

There will be however no order as to costs.

All parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)