

AP 150 of 2021
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION
ORIGINAL SIDE

M/S GANAPATI TECHNOLOGY SERVICES (P) LTD
VS
THE STATE FISHERIES DEVELOPMENT CORPORATION LIMITED

Before:
The Hon'ble Justice DEBANGSU BASAK
Date: 19th March, 2021

Appearance:
Mr. Sankarsan Sarkar, Adv.
Mr. Sunil Kr. Singhanian, Adv.
...for petitioner.
Mr. Jishnu Chowdhury, Adv.
Mr. Chayan Gupta, Adv.
Mr. Sourav Bhagat, Adv.
Mrs. Shruti Swaika, Adv.

The Court: By this application under Section 11(6) of the Arbitration and Conciliation Act, 1996, the petitioner seeks appointment of an Arbitrator.

The petitioner participated in a notice inviting tender dated October 10, 2018. The petitioner was awarded the concerned work order. The work order dated December 18, 2018 was issued. The parties litigated under Section 9 of the Arbitration and Conciliation Act, 1996. In such proceeding by an order dated February 24, 2021, the fact that there exists an arbitration agreement is not in dispute was recorded.

The petitioner issued a notice under Section 21 of the Act of 1996 on February 5, 2021. The respondent did not respond to it.

The arbitration agreement between the parties is as follows:

“Except where otherwise provided in the contract all questions and disputes relating to the meaning of the specifications, desings, drawings and instructions herein before mentioned and as to the quality, workmanship or materials used on the work or as to any other question, claim, right matter or things whatsoever, in any way arising out of or relating to the contract, desings, drawings, specifications, estimates, instructions, orders or those conditions or otherwise concerning the works, or the execution, or failure to execute the same, whether arising during the progress of the work, or after the completion or abandonment thereof shall be referred to the sole arbitration of chairman West Bengal Fisheries Corporation Ltd. Should the Chairman WBFC Ltd. be for any reason unwilling or unable to act as such arbitrator, such questions and disputes shall be referred to an arbitrator to be appointed by the Chairman WBFC Ltd. The award of the arbitrator shall be final, conclusive and binding on all parties to this contract.”

In such circumstances, since there are disputes and differences subsisting between the parties covered by the arbitration agreement, it would be appropriate to appoint Mrs. Justice Madhumati Mitra (retired) as the Arbitrator in terms of the arbitration agreement. The learned Arbitrator will fix her remuneration which will be shared equally by the parties.

The costs and the expenses of the arbitration are to be borne by the parties in equal share.

The parties will inform the learned Arbitrator in this order.

Since no affidavits are invited, the allegations made in the petition are deemed not to be admitted by the respondent.

AP 150 of 2021 is disposed of accordingly.

(DEBANGSU BASAK, J.)