

AP 176 of 2020

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

BASAB DUTTA
Versus
THE GENERAL MANAGER AND 2 OTHERS

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE

Date : 8th February, 2021.

Appearance:
Ms. Somoshree Saha, Adv.
...for the petitioner.

Mr. Shankar Ranjan Sen, Adv.
...for the respondents.

The Court : The supplementary affidavits filed on behalf of the petitioner be kept with the record.

The petitioner has filed this application under Section 11(6) of the Arbitration & Conciliation Act, 1996, for constitution of an arbitral tribunal for adjudication of the disputes and differences that have arisen between the petitioner and Eastern Railways in relation to an agreement dated October 3, 2016 for supply, fabrication and erection of steel structure for foot over bridges, platform sheds at various stations, etc.

It is not in dispute that the agreement between the parties contains an arbitration clause for resolution of disputes between the parties. As per the agreed arbitration clause, the General Manager of Eastern Railways was required to constitute an arbitral tribunal consisting of three members (since the claim is in excess of Rs.1 crore), upon being so requested by the petitioner. The petitioner issued a notice for arbitration

addressed to the General Manager, Eastern Railways, on November 15, 2019. Since such tribunal was not constituted nor the notice was responded to, the petitioner has approached this Court with the present application.

Learned advocate for the Railways submits that the notice of arbitration, in fact, did not reach the General Manager, Eastern Railways. However, upon being served with a copy of the present application under Section 11(6) of the 1996 Act, the General Manager, Eastern Railways has immediately nominated four persons, three out of whom may constitute the arbitral tribunal. Let a copy of the letter dated January 21, 2021 written by the senior law officer, Eastern Railways to the Deputy CE, Eastern Railways, Howrah be kept with the record.

Learned advocate for the parties say that they have no objection if the Court appoints three out of the four persons suggested by the General Manager, Eastern Railways, as members of the arbitral tribunal.

Accordingly, Sri Ashis Kumar Panda, ex-PCMM/ER/Kolkata, Sri Ajay Kumar Lal, ex-PFA & CAO/System/N.Rly and Shri Amlan Kumar Biswas, ex-PCOM/N.F.Rly are appointed as members of the arbitral tribunal to adjudicate the disputes and differences that have arisen between the parties in relation to the agreement dated October 3, 2016. The senior most amongst the said three persons shall act as the presiding arbitrator. The arbitration shall be in accordance with the provisions of the Arbitration & Conciliation Act, 1996. The sittings shall be held in Calcutta.

The arbitrators and the presiding arbitrator shall be free to fix their fees and to engage secretarial staff for conducting the arbitration. The fees of the arbitrators and the presiding arbitrator as well as the remuneration of the secretarial staff shall be borne by the parties in equal shares.

AP No.176 of 2020 is, accordingly, disposed of.

(ARIJIT BANERJEE, J.)

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