

HIGH COURT OF CHHATTISGARH, BILASPUR

ARBR No. 4 of 2020

M/s. Raj Industries-Bilaspur New Sarkanda Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. Sr. Divisional Electric Engineer (G) S.E.C Railway Raipur.
2. Sr. Divisional Railway Manager, S.E.C Railway Raipur.
3. General Manager, S.E.C Railway Raipur

---Respondents

For petitioner – Shri Ravi Ranjan Sinha, Advocate.

For respondents – Shri R.M. Solapurkar, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

01/02/2021

Heard.

1. This is an application for appointment of an Arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short 'the Act, 1996').
2. It is contended on behalf of the petitioner that pursuant to a notice inviting tender on 15/02/2017 the petitioner submitted his tender. The tender having been accepted for replacement of T-5, 40 watt tube light, metal halide light fittings with LED lights etc. at Railway Station, Raipur and cabin, the agreement was entered on 13/06/2017 by Annexure P-3. The completion of the agreement date was 14/02/2018. It is stated that even after completion of the agreement the payment was not released on the ground that the petitioner has not filed the document of the partnership deed. Learned counsel submits that the petitioner has submitted the partnership deed at the very inception while the tender form was submitted but time and again the respondent demanded for the document of partnership deed. Consequently, the petitioner by letter dated

22/02/2019 Annexure P-15 called for appointment of the Arbitrator as the respondent despite the dispute exist failed to appoint the Arbitrator as per the clause 64 of the Standard General Condition of the contract of the Railways. Learned counsel submits that during the pendency of this petition a document have been filed that the Railway have appointed their employee as an Arbitrator, however the said appointment would be void as he would be an interested party and the petitioner do not concede to such offer.

3. Learned counsel for the respondents would submit that according to the instruction the Arbitrator having been appointed by letter dated 13/05/2020 Annexre R-17 the petitioner will be free to go before him.

4. In this case it appears that after the petition has been filed one Arbitrator was appointed, however the same has not been consented during the course of submission before this court. The agreement, the standard general condition of contract contains a arbitration clause and the petitioner entered into agreement on 13/06/2017 wherein date of completion of contract was 14/02/2018. It is not in dispute that within the time the contract have been executed. It appears that certain queries were made subsequently after completion of the contract and the payment has not been released. The document further shows that on 22/02/2019 the petitioner through notice requested for appointment of Arbitrator but it was not acceded to and eventually after the petition has been filed. During the pendency of this petition on 13/05/2020 an Arbitrator has been appointed, therefore it appears that the dispute exists which needs to be arbitrated. Since within stipulated time even after notice sent by petitioner no arbitrator was appointed and after the petition was filed Railway unilaterally had appointed the arbitrator which is consented by petitioner.

5. Considering the facts of this case, it is ordered that Hon'ble Shri

Justice Vijay Kumar Shrivastava is appointed as an Arbitrator to arbitrate the matter. Registry shall inform the Arbitrator about his appointment. The remuneration of the Arbitrator shall be paid according to the Act, 1996 apart from the expenses.

6. With the aforesaid observation, the arbitration request stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE