

HIGH COURT OF CHHATTISGARH AT BILASPUR**M.C.C. NO. 213 OF 2020**

- M/s R. K. Transport Company, through its Proprietor Shri Ramesh Kumar Jain, S/o Shri Heeralal Jain, aged about 64 years, Navkaar Parisar, Pulgaon Naka, Durg (C.G.)

... Applicant**versus**

- Chhattisgarh Mineral Development Corporation Ltd., (Sonakhan Bhawan), Ring Road No.1, Village Puraina, P.O. Ravigram, Raipur (C.G.) 492006. Through, its Officer-in-Charge, Assistant General Manager (Geology).

... Non-applicant

For Applicant	:	Mr. Prafull N. Bharat, Senior Advocate, assisted by Mr. Anand Dadariya, Advocate.
For Non-applicant	:	Mr. Peeyush Bhatia, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****[18/10/2021]**

1. The present MCC has been filed by Applicant/Company for recalling of the Order dated 6.1.2020 passed by this Court in Arbitration Application No.17/2019.
2. The whole dispute revolves around an arbitration proceeding between Applicant and Non-applicant. Initially, an Arbitration Application under Section 11(6) of the Arbitration and Conciliation Act, 1996 was moved by Non-applicant/Corporation and this Court vide its Order dated 8.12.2017 had appointed Justice Dharendra Mishra, a former Judge of the High Court of Chhattisgarh, as the Sole Arbitrator. The proceeding had been continuing and it reveals that on mutual consent the proceeding was extended for a further period of six months' time by the Sole Arbitrator vide Order dated 8.12.2018.
3. However, since the proceeding could not be concluded within the stipulated time, the Non-applicant/Corporation had moved before this Court Arbitration Application No.17/2019 which got disposed of at the admission stage itself on 6.1.2020 without notices being issued to other side. The disposal of the said Arbitration Application was on the statement made by the Counsel for the Corporation. Immediately thereafter the present MCC has been filed on 13.2.2020 and this Court vide its Order dated 2.3.2020 had stayed the further proceeding arising out of the Order dated 6.1.2020.

4. Contention of learned Senior Counsel appearing for Applicant/Company all along was that the Arbitration Application No.17/2019 was disposed of at the motion stage itself on the statement made by the Counsel for Non-applicant/Corporation and the facts narrated by the Counsel for Non-applicant/Corporation were totally incorrect and false and therefore the Order dated 6.1.2020 needs to be recalled.

5. Pending the MCC before this Court, the Non-applicant/Corporation has filed their return on 27.1.2021. In the return, the Non-applicant/Corporation has now expressed their willingness to consider the application for substitution of the Sole Arbitrator with the leave of the Court.

6. The fact which also needs appreciation at this juncture is that vide Order dated 6.1.2020 this Court had granted further extension of six months' time to the Sole Arbitrator to conclude the proceeding. However, by virtue of the Interim Order dated 2.3.2020 which still is in operation, the extension granted of six months' time was got lapsed and the stage of proceeding stands at the stage what it stood prior to the Order dated 6.1.2020 passed in Arbitration Application No.17/2019.

7. Today, during the course of hearing, learned Counsels appearing on either side have accepted the fact that either side is willing to entertain the application for substitution of Sole Arbitrator.

8. Given the said stand acceptable to either side, the present MCC deserves to be and is accordingly allowed and the Order dated 6.1.2020 as such stands recalled. The stage of the arbitration proceeding hence would be as it stood prior to 6.1.2020 i.e. the date the Order was passed by this Court in Arbitration Application No.17/2019.

9. With the recalling of the Order dated 6.1.2020 and the allowing of the present MCC, the parties would now be free to move and take appropriate steps for substitution of the Sole Arbitrator in terms of the provisions of the Arbitration and Conciliation Act, 1996.

10. As a consequence of the allowing of the MCC, let the Arbitration Application No.17/2019 which got disposed of on 6.1.2020 be posted for hearing in the second half of today itself.

/sharad/

Sd/-
(P. Sam Koshy)
JUDGE