

HIGH COURT OF CHHATTISGARH AT BILASPUR**ARBITRATION APPLICATION NO. 17 OF 2019**

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

... Applicant**versus**

- 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.)

... Non-applicant

For Applicant	:	Mr. Peeyush Bhatia, Advocate.
For Non-applicant	:	Mr. Prafull N. Bharat, Senior Advocate, assisted by Mr. Chetan Singh Chouhan and Mr. Ashish Surana, Advocates.

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

1. Present is an Application filed by Applicant/Corporation under Section 29A of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as, "the Act of 1996") seeking for extension of the mandate of the Sole Arbitrator for further period of six months' time.

2. Initially, the present Application was disposed of by this Court vide Order dated 6.1.2020. Subsequently, an Application was filed by Non-applicant/ Company before this Court, vide MCC No.213/2020, seeking for recall of the aforesaid Order dated 6.1.2020. The said MCC stood allowed vide Order dated 18.10.2021 and it is thereby that the present Application has again come up for hearing before this Court today.

3. It is noteworthy to mention here that this Court had vide Order dated 8.12.2017 passed on an Application filed by Non-Applicant/Company under Section 11(6) of the Act of 1996 appointed Hon'ble Shri Justice Dharendra Mishra, former Judge of this High Court, as a Sole Arbitrator to arbitrate the dispute between the parties.

4. Down the line, since the proceeding could be not concluded, there was certain application moved by Non-applicant/Company also expressing reservation upon the Sole Arbitrator in proceeding further with the matter.

5. Today, when the matter was taken up for hearing, learned Senior Counsel for Non-applicant/Company had referred to the Reply that the Applicant/Corporation had filed in MCC No.213/2020 giving their willingness and consent for entertaining the application for substitution of a Sole Arbitrator.

6. Non-applicant/Company had already proposed the names of two Hon'ble Judges for substitution as a Sole Arbitrator in place of Hon'ble Shri Justice Dhirendra Mishra. Non-applicant/Company has also obtained consent from the Hon'ble Judges proposed by them.

7. When the matter is taken up for hearing today, learned Counsel appearing for Applicant/Corporation has on instructions made a submission that in terms of sub-section (6) of Section 29A of the Act of 1996, this Court may while entertaining the Application under Section 29A substitute the Arbitrator and he has no objection in appointing one among the two Hon'ble Judges as proposed by Non-applicant/Company.

8. Though Section 29A of the Act of 1996 deals with time limit and extension of mandate of the Arbitrator, sub-section (6) also envisages a provision whereby the Court can also substitute the Sole Arbitrator or all the Arbitrators. For ready reference, sub-section (6) of Section 29A is reproduced herein below :-

“29A. Time limit for arbitral award.-

xxx xxx xxx

(6) While extending the period referred to in sub-section (4), it shall be open to the Court to substitute one or all of the arbitrators and if one or all of the arbitrators are substituted, the arbitral proceedings shall continue from the stage already reached and on the basis of the evidence and material already on record, and the arbitrator(s) appointed under this section shall be deemed to have received the said evidence and material. ...”

9. Given the aforesaid submission made by learned Counsel for Applicant/Corporation, particularly the submission whereby he has made a request for allowing the oral prayer made by learned Senior Counsel for Non-applicant/Company for substitution of the Sole Arbitrator to be appointed, this Court is inclined to allow the present Application under Section 29A of the Act of 1996 and the at the same time is also inclined to accept the proposal made by learned Counsels appearing for the either side for substitution of the Sole Arbitrator.

10. Accordingly, this Court appoints Hon'ble Shri Justice Dipak Misra, former Chief Justice of India, to act as a Sole Arbitrator for resolving the dispute between the parties. The proceeding shall be drawn from the stage the earlier Arbitrator has left the proceeding (that is the stage as it stood prior to 6.1.2020), in accordance with the provisions of the Act of 1996.

11. Registry is directed to communicate this Order to Hon'ble Shri Justice Dipak Misra to enter upon reference after complying with the provisions contained under Section 12(2) of the Act of 1996 and to adjudicate upon the dispute as expeditiously as possible in accordance with the Act of 1996.

12. The remuneration of the Arbitrator shall be settled with the mutual consent by the parties.

13. Arbitration Application accordingly stands allowed to the extent indicated herein above.

/sharad/

Sd/-
(P. Sam Koshy)
JUDGE