

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION PETITION NO.622 OF 2018**

The State of Maharashtra, represented
by the Executive Engineer, Public Works
Department

....Petitioner

V/s.

M/s Atlanta Ltd. (formerly known as
Atlanta Infrastructure Ltd.)

....Respondent

None for the parties.

**CORAM : K.R.SHRIRAM, J.
DATED : 15th MARCH 2021**

P.C. :

1 As none appeared for the parties, I went through the award without assistance of any advocate.

2 This is a petition under Section 34 of the Arbitration and Conciliation Act, impugning an unanimous award dated 29th January 2018, passed by Tribunal of three Arbitrators, Arbitrators being two former Judges of this court and the presiding Arbitrator former Supreme Court Judge, unanimously dismissed the counter claim filed by petitioner.

2 The claim had been withdrawn by claimant and the Tribunal had to decide only on the counter claim. On the three issues raised, Tribunal has unanimously held that petitioner is not entitled to the claims made.

3 Petitioner had made counter claim stating that respondent had received more amount than the agreed contractual amount and, therefore, that excess amount recovered should be paid over to petitioner with

interest. The Arbitral Tribunal has observed that despite repeatedly being asked upon, petitioner was unable to show the provisions under which respondent had an obligation to pay over its profits to petitioner.

4 Considering the evidence recorded and the answers given in cross-examination, the Tribunal has also rejected petitioner's submissions that respondent had given false information to petitioner.

5 The other point raised by petitioner was that respondent had not constructed the road as per the specifications mentioned in the agreement and did not maintain the road as it was expected to maintain under the agreement. The Tribunal has relied upon the certificates issued by petitioner to conclude that petitioner's allegations were not maintainable.

6 Having considered the award and the grounds raised, in my view, no case for interference within limited scope provided under Section 34(2)(b) (ii) has been made out.

7 Petition dismissed.

(K.R. SHRIRAM, J.)