

AP/10/2022

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTIONC N C COMPONENTS PRIVATE LIMITED
VERSUS
ADVANCED WEAPONS AND EQUIPMENT INDIA LIMITED

BEFORE:

THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA

DATE : 16TH MARCH, 2022

APPEARANCE:

Mr. Satadeep Bhattacharyya, Advocate

Mr. Shiv Ratan Kakrania, Advocate

Mr. Tanuj Kakrania, Advocate

Mr. Karanjit Sharma, Advocate

.....for the petitioner.

Ms. Aparna Banerjee, Advocate

.....for the respondent.

The Court:- This application has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of the arbitrator.

It is pointed out by learned counsel for the applicant that the purchase order dated 28th December, 2015 was issued by the respondent in favour of the applicant and that the arbitration clause is contained in the General Terms & Conditions enclosed with the purchase order, which reads as under:

“Format of Arbitration Clause – Indigenous Private bidders

(i) All disputes or differences arising out of or in connection with the present contract including the one connected with the validity of the present contract or any part thereof should be settled by bilateral discussions.

(ii) Any dispute, disagreement or question arising out of or relating to this contract or relating to construction or performance (except as to any matter the decision or determination whereof is provided for by these conditions), which cannot be settled amicably, shall within sixty (60) days or such longer period as may be mutually agreed upon, from the date on which either party informs the other in writing by a notice that such dispute, disagreement or question exists, will be referred to a sole Arbitrator.”

He has further submitted that since the purchase order was subsequently cancelled, therefore, invoking the arbitration clause, notice dated

25th January, 2021 was sent by the applicant to the respondent proposing the name of the arbitrator which was not accepted by the respondent by communication dated 17th February, 2021 stating that the dispute is required to be referred to the sole arbitrator to be appointed by the Director General of Ordnance Factories. He submits that thereafter the notice was again sent by the applicant and that the communication dated 16th April, 2021 issued by the Director General, Ordnance Factories to the General Manager, Gun and Shell Factory clearly states that no independent arbitrator is available at OFB, therefore, the concerned authority asked to move under Section 11 of the Act for appointment of arbitrator. Hence, respondent itself wants appointment of arbitrator under Section 11 of the Act.

The above aspect is not disputed by the learned counsel for the respondent.

Hence, in view of the material on record and consent of learned counsel for the respondent for appointment of arbitrator under Section 11 of the Act to resolve the disputes, Hon'ble Justice Samapti Chatterjee, a retired Judge of this Court is appointed as arbitrator.

The appointment is subject to submission of declaration by the Arbitrator in terms of Section 12(1) in the form prescribed in the Sixth Schedule of the Act before the Registrar, Original Side of this Court within four weeks from today.

Let this order be conveyed to the Arbitrator by the Registrar, Original Side forthwith.

AP is accordingly disposed of.

(PRAKASH SHRIVASTAVA, C.J.)