

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.5970 of 2021
(Through hybrid mode)

Monoj Kumar Routray

....

Petitioner

Mr. J.K.Mohapatra, Advocate

-versus-

***M/s. Odisha State Beverages
Corporation Ltd.***

....

Opposite Party

Mr. R.Sahoo, Advocate

CORAM: JUSTICE ARINDAM SINHA

ORDER
21.02.2022

Order No.

04.

1. Mr. Mohapatra, learned advocate appears on behalf of petitioner and submits, there be interference. The arbitral Tribunal passed order dated 9th February, 2021 in spite of the arbitrator being disqualified under sub-section (5) in section 12 of Arbitration and Conciliation Act, 1996. Furthermore, mandate too has expired though opposite party (claimant) has petitioned for extension of time.

2. Mr. Sahoo, learned advocate appears on behalf of opposite party and draws attention to impugned order. He submits, petitioner filed petition dated 28th December, 2020 contending that the arbitrator is disqualified. He demonstrates from impugned order that the petition had been kept for adjudication on 23rd February, 2021. By impugned order in this writ petition, the reference stood stayed.

3. Perused impugned order. The Tribunal had two contentions before it. First, regarding disqualification of arbitrator under section 12(5). Second is, whether mandate had expired. To that effect opposite party (claimant) admittedly had filed for extension of time before the learned District Judge.

4. Article 227 in the Constitution of India empowers the High Court to regulate the procedure. Here, procedure adopted by the Tribunal does not appear to require regulation or interference. Amended provisions under section 29A do provide for validity and continuation of the mandate till disposal of the petition for extension of time. So far as disqualification of the arbitrator is concerned, the contention was made by petition dated 28th December, 2020 and the Tribunal was at the threshold of adjudicating it, when prevented by order of stay.

5. The Tribunal will proceed and adjudicate on petition dated 28th December, 2020, if in the meantime section 29A petition has not been dealt with. Parties will immediately communicate this order to the Tribunal, for it to fix date of hearing of the petition dated 28th December, 2020.

6. With above direction, the writ petition is disposed of.

(Arindam Sinha)
Judge

RKS