

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO.45 OF 2022

M/s. Mahalaxmi HP Gas Agency through its Partners
Savita Suryakant Yadav and another ... Petitioners
Vs.
Hindustan Petroleum Corporation Limited & anr. ... Respondents

Mr. Ganesh Misal i/b. Mr. Vishal Kale for Petitioners.
Mr. Pralhad Paranjape for Respondents.

CORAM : MANISH PITALE, J.
DATE : NOVEMBER 28, 2022

P.C. :

. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of an arbitrator.

2. The respondents have executed a dealership agreement with the petitioners in respect of dealership of LPG gas. The agreement contained an arbitration clause at clause No.38, which provided for resolution of disputes between the parties by way of arbitration.

3. In the light of the disputes that arose between the parties, the petitioners invoked the arbitration clause by issuing notice dated 28.08.2021. There was no response from the respondents, as a result of which, the petitioner was constrained to approach this Court.

4. Upon notice being issued, the respondents have appeared through counsel. It is submitted on behalf of the respondents that since there is indeed an arbitration clause in the agreement, this Court may appoint an arbitrator for resolving disputes that have arisen between the parties.

5. Perusal of the arbitration clause shows that the disputes that may arise between the parties are to be referred to the arbitration of the Chairman and Managing Director of the respondent Corporation or some officer or retired officer of other Oil PSUs or retired Senior

Central Government Officer to be nominated by the Chairman and Managing Director. This clause is hit by Section 12(5) read with Schedule VII of the aforesaid Act as also law laid down by the Hon'ble Supreme Court in the case of *Perkins Eastman Architects DPC Vs. HSCC (India) Limited*, (2020) 20 SCC 760.

6. In this backdrop, learned counsel for the rival parties, on instructions, submit that a neutral sole arbitrator may be appointed. They jointly request for appointment of Mr. J. T. Utpat, retired District Judge as the sole arbitrator.

7. Accordingly, Mr. J. T. Utpat, retired District Judge is appointed as the sole arbitrator. The details of the learned Arbitrator are as follows:-

Mr. J. T. Utpat

Flat No.302, Sanskruti Sankalp.
In front of Jadhav Bungalow,
Near Ram Garden, Vadgaon (BK)
Pune, Mob. No.+91 90961 45322

8. The parties undertake to inform the learned Arbitrator about the order passed today, at the earliest.

9. Learned Arbitrator is requested to submit his consent and disclosure statement in terms of Sections 11(8) read with 12(1) of the aforesaid Act within four weeks to the Registrar (Judicial) of this Court.

10. The fees of the learned Arbitrator shall be fixed in terms of the Fourth Schedule to the aforesaid Act.

11. All questions are kept open.

12. Petition stands disposed of.

(MANISH PITALE, J.)