

Prajakta Vartak

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMM. ARBITRATION APPLICATION NO. 4 OF 2022

DS Enterprises
Vs.
Hindustan Petroleum Corporation Ltd.

..Applicant
..Respondent

Mr. Kalpesh Joshi i/b Kalpesh Joshi Associates for applicant.
Mr. Vijay Purohit a/w Mr. Pratik Jhaveri, Mr. Virendra Vikram i/b P&A Law
Offices for Respondent.

CORAM : G.S. KULKARNI, J.
DATE : 18 July, 2022.

PC.:

1. This is an application filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, “the Act”) whereby the applicant has prayed for appointment of an arbitral tribunal for adjudication of the disputes and differences which have arisen between the parties under a Purchase Order No. 20000417-OQ-10120 issued in favour of the applicant under Tender No. 20000023-HD-10120. The arbitration agreement is contained in special conditions of contract (SCC) in clause 13 as also in clause 14 of the general terms and conditions of works contract.

2. There is no dispute in regard to the existence of the arbitration agreement. The applicant by its advocate’s letter dated 23 March, 2021, invoked the arbitration agreement in regard to which there is no dispute. The parties however, could not agree to the appointment of an arbitral tribunal. Hence the present application came to be filed.

3. Learned counsel for the respondent would not have any objection for independent arbitral tribunal to be appointed.

4. In the above circumstances, the application is required to be allowed. Hence, the following order:-

ORDER

(i) Smt. Roshan Dalvi, Former Judge of this Court, is appointed as a sole Arbitrator to arbitrate the disputes and differences between the parties under the Purchase Order No. 20000417-OQ-10120 issued in favour of the applicant under a Tender No. 20000023-HD-10120.

(ii) The learned prospective sole arbitrator, before entering the reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of this application with a copy to be forwarded to both the parties;

(iii) The fees payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018.

(iv) At the first instance, the parties shall appear before the prospective arbitrator within 15 days from today on a date which may be mutually fixed by the prospective sole arbitrator;

(v) All contentions of the parties are expressly kept open;

(vi) The application is disposed of in the above terms. No costs.

(vii) Office to forward a copy of this order to the learned Arbitrator on the following address:

“Smt. Roshan Dalvi, Former Judge of this Court,
Address: 202, Siddhant, Madhusudan Kalelkar Road,
Kalanagar, Bandra (East),
Mumbai – 23
Mobile No. 9423993796.”

[G.S. KULKARNI, J.]