

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

MISC. CIVIL APPLICATION [ARBN] NO. 224 OF 2020.

Khare and Tarkunde Infrastructure Pvt. Ltd.

-VERSUS-

Western Coalfields Limited.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A.V. Khare, Advocate for the Applicant.

Shri N.G. Moharir, Advocate for the Non-applicant.

.....

CORAM : VINAY JOSHI, J.

DATE : JULY 26, 2022.

Heard learned Counsel for the parties.

2. This is an application filed under Section 11[6] of the Arbitration and Conciliation Act, 1996. The applicant is a Company incorporated under the provisions of Companies Act, 1956, engaged in the work of construction of bridges and is a Government contracting company.

3. There was a contract in between the parties, in pursuance of which the applicant allegedly completed the contractual work,

2

however, the dispute arose as regards pending bills.

4. Initially there was no arbitration clause in the agreement, however, the parties agreed for an arbitration through exchange of communications, which is permissible under Section 7[4][b] of the 1996 Act. Exchange of communications to that effect are produced on record, for which there is no dispute. The non-applicant in its reply only contended that there was total non-compliance of Section 12[5] of the 1996 Act.

5. In response to this, the applicant makes a statement that they are not inclined to waive the mandate of sub-clause [5] to Section 12 of the 1996 Act. In such a background both the parties are *ad idem* in appointing a sole arbitrator for resolution of their dispute. Both the learned Counsel have suggested the name of Former Chief Justice B.P.Dharmadhikari, to be appointed as a sole Arbitrator.

3

6. Accordingly, Misc. Civil Application is allowed and disposed of by appointing Former Chief Justice B.P. Dharmadhikari, as a sole Arbitrator. It is made clear that all objections sought to be raised on behalf of the non-applicant, are kept open, may be raised before the learned Arbitrator.

7. The Registry is directed to request the learned Arbitrator for consent letter and for disclosure statement as per the provisions of the 1996 Act.

JUDGE