

12.07.2023
Item no.2
Court No.1.
AB

Calcutta High Court

In the Circuit Bench at Jalpaiguri

C. O. No.70 of 2023

Bablu Halder

Vs

The Union of India & Others

Mr. Koushik Chatterjee,
Mr. Debajit Kundufor the Petitioner.

Mr. Sudipto Kr. Majumdar, Id. DSG
Mr. Ajoy Kr. Singhanian
....for the N. F. Railways.

Affidavit of Service filed in Court today be kept
with the records.

This is an application under Section 11 of the
Arbitration and Conciliation Act, 1996. The
petitioner appears to have done some work for the
Union of India. The agreement under which the
petitioner executed such work contains an
arbitration clause for resolution of disputes and
differences between the parties.

The petitioner says that disputes and differences
have arisen in connection with the said
agreement which requires to be resolved.

The petitioner had earlier approached this Court
in writ jurisdiction by filing WPA 586 of 2023,
challenging an order of the Union of India
terminating the appointment of the petitioner as

contractor. In that writ petition, an order dated May 11, 2023 was passed. The relevant portion of the said order reads as follows:

“As the parties consent to refer the issue to arbitration, this Court even while exercising writ jurisdiction and in absence of an written arbitration agreement or agreement borne out of exchange of letter can record that the petitioner shall file a statement of claim to which a counter be filed by the respondents without objecting to the non existence of the arbitration agreement.

The parties further consent that Mr. Bikramaditya Ghosh, leaned advocate, practicing in the Circuit Bench at Jalpaiguri, be appointed as the arbitrator. Being alive to the provisions of Arbitration and Conciliation Act, 1996 and the judgment delivered by the Hon’ble Supreme Court in this regard, I direct the petitioner to write a letter referring to this order proposing the reference of disputes as indicated in this order to the arbitration of Mr. Bikramaditya Ghosh, learned advocate within a fortnight from date. The Competent Officer of the North East Frontier Railways preferably respondent no.2 shall accept the proposal by a reply letter within a month from the date of receipt of the petitioner’s letter. The parties will then be free to proceed with the arbitration.

In the event of failure on the part of the North East Frontier Railways in accepting the petitioner’s proposal for arbitration then the petitioner shall be entitled to approach this Court for appointment of an arbitrator under the provisions of Section 11 of the Arbitration and Conciliation Act, 1996.

In the event of petitioner’s failure to send the proposal for arbitration within the time frame provided, this order along with the consent of arbitration recorded therein should automatically lapse and the writ petition shall be treated to have been dismissed with the interim order being vacated. The respondents shall be free to take such steps as may be available to them in law.

The writ petition is accordingly disposed of.”

The petitioner says that in spite of writing a letter referring to the aforesaid order proposing reference of disputes to arbitration before Mr. Bikramaditya Ghosh, Advocate, the respondents have not responded thereto. Accordingly, in terms of the liberty granted by the aforesaid order, the present application under Section 11 of the Arbitration and Conciliation Act, 1996 has been filed.

I have heard learned Advocates for the parties. Learned Advocate for the respondents says that the respondents would have no objection if Mr. Bikramaditya Ghosh, Advocate, is appointed as the sole Arbitrator to adjudicate the disputes that have arisen between the parties.

Accordingly, I appoint Mr. Bikramaditya Ghosh, learned Advocate practising in the Circuit Bench of the High Court at Jalpaiguri to adjudicate upon the disputes by and between the parties. The petitioner shall file his Statement of Claim before the Arbitrator within four weeks from date. Counter Statement be filed by the respondents within four weeks thereafter. The provisions of the Arbitration and Conciliation Act, 1996 will govern the arbitration proceedings. The Arbitrator shall decide the venue, the remuneration, make requisite statutory declaration etc. and shall

proceed to complete the arbitration in accordance with law.

If the petitioner has been permitted to deposit the licence fee with the Railway Authority by any earlier order of this Court, the same shall naturally remain operative.

CO No. 70 of 2023 stands accordingly disposed of.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Arijit Banerjee, J.)