

OD-2

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

AP/163/2023

SEPC LIMITED
VS
HINDUSTAN COPPER LIMITED

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 3rd May, 2023

Appearance:
Mr. Uttiyo Mallick, Adv.
Ms. Vedika Sureka, Adv.
...for the petitioner

Mr. Indradeep Basu, Adv.
Ms. A. Hasan, Adv.
Ms. Swagata Roy, Adv.
...for the respondent (HCL)

The Court:- Learned counsel for the petitioner places reliance on Clause 16 of the Work Order dated July 6, 2017 and submits that the dispute which has arisen between the parties falls squarely within the scope of such arbitration clause.

The dispute is also arbitrable, it is submitted.

Learned counsel appearing for the respondent submits that originally there was an agreement between the parties to appoint three arbitrators, one by each party and the third by the two appointed arbitrators. However, now, the petitioner has sought for appointment of a single arbitrator. That apart, needless to say, the respondent also disputes the issues raised by the petitioner on merits.

Upon considering the submissions of learned counsel, it is evident that the disputes which have arisen between the parties fall squarely within the scope of Clause 16 of the Work Order dated July 6, 2017 and the issues in question are undoubtedly arbitrable.

As regards the objection raised by the respondent regarding the number of arbitrators, the scope of Section 11(6) of the Arbitration and Conciliation Act, 1996 gives the charter to the Court, hearing an application under the said provision, to appoint even a sole arbitrator if the agreed procedure between the parties has failed with regard to arbitration.

Hence, AP/163/2023 is allowed, thereby appointing Justice Tapan Kumar Dutt (Mobile No. 9831066037), a former Judge of this Court, as the sole arbitrator to resolve the disputes between the parties, subject to obtaining his declaration/consent under Section 12 of the Arbitration and Conciliation Act, 1996.

Since affidavits have not been invited, it is deemed that none of the allegations made in the application under Section 11 are admitted by the respondent.

(SABYASACHI BHATTACHARYYA, J.)