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ORDER SHEET
AP/217/2022
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

S K ENGINEERING WORKS
VS
GENERAL MANAGER, SOUTH EASTERN RAILWAY

BEFORE:

The Hon'ble JUSTICE SHEKHAR B. SARAF

Date: 31st March, 2023.

Appearance:
Mr. Asif Hussain, Adv.
Ms. Dipika Banu, Adv.
. . .for the petitioner.

The Court: None appears on behalf of the Railways in spite of service on several occasions.

The Arbitration Clause is at Clause 64 (3)(a)(i) which reads as follows:-

“In cases where the total value of all claims in question added together does not exceed Rs.10,00,000/- (Rupees ten lakhs only), the Arbitral Tribunal consist of a sole arbitrator who shall be either the General Manager or a gazetted officer of Railway not below the grade of JA grade nominated by the General Manager in that behalf. The sole arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by Railway.”

In light of the judgments *Perkins Eastman Architects DPC v. HSCC (India) Limited* reported in (2020) 20 SCC 760 and *TRF Limited v. Energo Engineering Projects Ltd.* reported in (2017) 8 SCC 377, unilateral appointment cannot be made by the Railways. Accordingly this Court is of the view that the matter should refer to arbitration of a sole Arbitrator.

It is to be noted that in this matter the arbitration has begun and pleadings were completed before the erstwhile Arbitrator who has resigned from the said arbitration. Accordingly, his mandate is terminated and Ms. Shrayashee Das, Advocate [Mobile No. 8420004462] is appointed as a sole Arbitrator.

The appointment is subject to submission of declaration by the Arbitrator in terms of Section 12(1) in the form prescribed in the Sixth Schedule of the Act before the Registrar, Original Side of this Court within four weeks from today.

The erstwhile Arbitrator is directed to transmit the records of the arbitration to the Arbitrator appointed by this Court within a period of seven days from date.

Let this order be conveyed to the Arbitrator by the Registrar, Original Side forthwith.

Accordingly, AP/217/2022 is disposed of.

(SHEKHAR B. SARAF, J.)