

OCD-3

ORDER SHEET

AP/376/2023

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

COGNITION PROJECTS PVT. LTD. AND ANR.
Versus
DAMODAR VALLEY CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 27th June, 2023.

Appearance:

Mr. Subhabrata Dutta, Adv.

Mr. Aranya Saha, Adv.

Mr. Pradip Kr. Tarafdar, Adv.

Mr. Subir Pal, Adv.

The Court: The applicant seeks appointment of an Arbitrator under Section 11(6) of the 1996 Act.

The disputes between the parties are evident from the notices sent by the petitioners to the respondents including a letter of demand and a notice under Section 21 of the said Act.

The petitioner was appointed as a contractor pursuant to a letter of Award dated 17th August, 2021 for construction of an integrated township of residential/ non-residential buildings including water supply, sanitation and electrification for a township in Purulia, West Bengal. The respondents had

issued a tender and the petitioners emerged as successful bidders. The Letter of Award happened after that.

Disputes arose between the parties on account of several factors which are stated in detail in the letter of demand issued by the petitioners on 18th April, 2023. The demand amounted to approximately Rs.18.96 crores. The demand was made subsequent to the contract being terminated by the respondents on 26th February, 2022. The petitioners also sent a notice under Section 21 of the Act to the respondents on 10th May, 2023 in accordance with Clause 33 of the contract for settlement of disputes by arbitration. The disputes concern the difficulties faced by the petitioners in working out the contract including delay in mobilisation of men and material and delay on the part of the respondents in issuing the requisite forms. The petitioners claim the amount as stated above primarily on account of money due to the petitioners for execution of the work in accordance with the contract.

The respondents have not replied to the Section 21 notice. Hence, apart from an agreement existing between the parties, there is also a dispute which is required to be resolved. This clearly is a case which falls under Section 11(6)(a) of the 1996 Act.

AP/376/2023 is accordingly allowed and disposed of by appointing Mr. Bhaskar Bhattacharyya, former Chief Justice of the Gujarat High Court, as the Arbitrator subject to the Arbitrator furnishing his consent in accordance with the Form and Rules under Section 12 and the Schedules to the Act which

is to be communicated to the Registrar, Original Side of this Court within three weeks from date.

The petitioners shall communicate this order on the Arbitrator forthwith.

(MOUSHUMI BHATTACHARYA, J.)

sg.