

OD 3

AP/405/2023
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

M/S BRITTI PROSIKSHAN PVT LTD
VS
PASCHIM BANGA SOCIETY FOR SKILL DEVELOPMENT

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 30th June, 2023.

Appearance:

Mr. Sakya Sen, Adv.

Mr. Krishnendu Bhattacharya, Adv.

Mr. Rajib Mullick, Adv.

Ms. Sormi Dutta, Adv.

Ms. Ayantika Saha, Adv.

. . .for the petitioner.

Mr. Arindam Mandal, Adv.

Mr. Shourya Samanta, Adv.

. . .for the respondent.

The Court: Since there is no consensus between the parties regarding appointment of arbitrator, the present application under Section 11 of the Arbitration and Conciliation Act, 1996 has been taken out.

It transpires from Clause 9 of the Memorandum of Understanding dated August 30, 2017 between the parties that the same clearly contains an arbitration clause which covers the disputes which have arisen at present between the parties.

A perusal of the said clause, as rightly pointed out by learned counsel for the petitioner, indicates that the Arbitrator proposed therein is an employee of

the respondent and, as such, is considered ineligible within the contemplation of Section 12 of the Arbitration and Conciliation Act, 1996.

Hence, an independent Arbitrator ought to be appointed. Accordingly, AP 405 of 2023 is allowed, thereby appointing Justice Rabindranath Samanta (Mobile No. - 9830501746), a retired Judge of this Hon'ble Court, as the sole Arbitrator to resolve the disputes between the parties, subject to obtaining his declaration/consent under Section 12 of the 1996 Act.

(SABYASACHI BHATTACHARYYA, J.)

SP/