

OD-26

ORDER SHEET

AP/462/2022

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

M/S MEGATREND SYSTEMS
VS
THE UNION OF INDIA

BEFORE:

The Hon'ble JUSTICE SHEKHAR B. SARAF

Date : 21st April, 2023

Appearance:

Mr. Ayan Banerjee, Adv.
Mr. Arijit Bhowmick, Adv.
Ms. Pooja Agarwal, Adv.
...for the petitioner

Mr. Indrajeet Dasgupta, Adv.
Ms. Puspita Bhowmick, Adv.
Ms. Rima Biswas, Adv.
...for the respondent

The Court: Heard Counsel appearing on behalf of the parties.

This is an application under Section 11 of the Arbitration and Conciliation Act, 1996 where the arbitration clause is at Clause 70 of the agreement between the parties.

It appears from the arbitration clause that the Arbitrator is to be appointed by the respondent at the request of the petitioner. Keeping in mind the judgment in *Perkins Eastman Architects DPC v. HSCC (India) Limited* reported in (2020) 20 SCC 760, *TRF Limited v. Energo Engineering Projects Ltd.* reported in (2017) 8 SCC 377 and in *Bharat Broadband Network Ltd. v. United*

Telecoms Ltd. reported in (2019) 5 SCC 755, I am of the view that such appointment should be made by the Court and should not be a unilateral appointment. The objections taken by the respondent do not in any manner impact the need to send this matter for arbitration as the contract has been terminated and the right of the petitioner to invoke the arbitration is justified.

In light of the same, Mr. Rudraman Bhattacharyya, Mob. No. 9830731277 is appointed as Arbitrator to resolve the dispute between the parties.

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.

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

AP/462/2022 is disposed of.

(SHEKHAR B. SARAF, J.)