

OD-12

ORDER SHEET

AP/566/2023

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

INDWELL CONSTRUCTIONS PRIVATE LIMITED
VS
BHARAT HEAVY ELECTRICALS LIMITED (BHEL)

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 29th August, 2023

Appearance:

Mr. Debdut Mukherjee, Adv.

Mr. S.Pal Choudhuri, Adv.

...for the petitioner

Mr. Rohit Das, Adv.

Ms. Kishwar Rahman, Adv.

Ms. Sristi Roy, Adv.

...for the respondent

The Court: This an application for extension of the learned Arbitrator's mandate under Section 29-A(4) of the 1996 Act. The mandate will admittedly come to an end on 31st August, 2023. The petitioner seeks to take the benefit of the orders passed by the Supreme Court in suo motu writ petition extending all periods of limitation under the General and Special Laws from 15th March, 2020 to 28th February, 2022 by reason of the pandemic from 15th March, 2020 to 28th February, 2022.

Learned counsel appearing for the respondent does not oppose the extension of the mandate but seeks the Court's clarification on the

interpretation of the word 'court' in Section 29-A(4) as construed by a Co-ordinate Bench in *Amit Kumar Gupta vs. Dipak Prasad* reported in (2021) 1 Cal LT 278 to mean the High Court under Section 11 of the 1996 Act. Counsel seeks to reserve the respondent's right to approach the Commercial Court at Rajarhat which will be the Court in terms of Section 2(1)(e) read with Section 42 of the 1996 Act.

Considering the submissions made on behalf of the parties and in view of the subsistence of the learned Arbitrator's mandate at the time of making the application, AP/566/2023 is accordingly allowed and disposed of by extending the mandate for four months from today.

It is made clear that the respondent agreeing to extension of the learned Arbitrator's mandate will not be construed as the respondent subjecting itself to the jurisdiction of this Court in respect of further proceedings which the respondent may initiate in the arbitration including the respondent's right to challenge the jurisdiction of the arbitrator under Section 34 of the Act.

The affidavit of service is kept on record.

(MOUSHUMI BHATTACHARYA, J.)