

OCD-17

ORDER SHEET

AP/626/2023

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

SOHAN MINERAL AND MINING COMPANY PRIVATE LIMITED
Versus
STEEL AUTHORITY OF INDIA LIMITED

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 5th September, 2023.

Appearance:

Mr. Rohit Das, Adv.

Ms. Kishwar Rahman, Adv.

Ms. Sristi Roy, Adv.

...for the petitioner

Mr. Samrat Sen, Sr. Adv.

Mr. Arijit Basu, Adv.

...for the respondent

The Court: The undisputed facts urged by learned counsel appearing for the petitioner (who is the respondent in the arbitration) and the respondent are that the present learned Sole Arbitrator was appointed on 23rd March, 2021 and was informed of his appointment on 22nd November, 2021. The earlier Arbitrator was disabled from performing his functions by reason of being unilaterally appointed. The dates shown to the Court reflect that the parties took advantage of the *suo motu* orders passed by the Supreme Court by reason of the pandemic which ended on 28th February, 2022. The mandate of the

learned Arbitrator ended on 31st August, 2023 and the present application was filed on 30th August, 2023.

Counsel informs the Court that the evidence has been concluded albeit in haste and that only the arguments remain. Counsel appearing for the respondent (claimant in the arbitration) submits that counsel was not able to attend the Sittings by reason of his health and hence could not effectively participate in the cross-examination of the respondent's witness. Counsel accordingly seeks appropriate orders.

The dates do not leave any doubt that the present application under Section 29-A(4) of the 1996 Act is maintainable and the Court can pass appropriate orders for extension of the Arbitrator's mandate. The only point is whether the Court can pass directions on the learned Arbitrator in respect of the conduct of the proceedings.

Section 29-A does not allow the Court to do that since the only power under Section 29-A(4) and (5) is to extend the Arbitrator's mandate subject to sufficiency of cause being shown to the Court.

Notwithstanding the above, the Court understands the predicament of counsel appearing for the claimant in the arbitration. Therefore, counsel is given leave to pray for appropriate orders before the learned Arbitrator and the learned Arbitrator is requested to consider the same.

It is also made clear that both the claim and the counter-claim will form part of the ongoing arbitration process.

AP/626/2023 is accordingly allowed and disposed of by extending the mandate for a period of six months from 31st August, 2023.

(MOUSHUMI BHATTACHARYA, J.)

sg.