

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION

AP/800/2022

RAM CHANDRA PAUL
VERSUS
GOVERNOR OF WEST BENGAL
THROUGH THE NATIONAL HIGHWAYS WING,
GOVERNMENT OF WEST BENGAL

BEFORE:

HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA

Date: 5th January 2023.

APPEARANCE:

Ms. Nilanjana Adhya, Advocate
Ms. Neelina Chatterjee, Advocate
... for applicant.

Mr. Sudip Kumar, Advocate
Mr. Ganesh Prasad, Advocate
Mr. Sayan Dev Kumar, Advocate
... for respondent.

The Court:- Affidavit of service filed by the applicant is taken on record.

This application under Section 11 of the Arbitration and Conciliation Act, 1996 has been filed for appointment of the arbitrator to resolve the disputes between the parties.

Learned counsel for the applicant has pointed out that the arbitration agreement dated 2nd September 2014 was executed between the parties which contained the following arbitration clause:-

“26.3 Arbitration

26.3.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 26.2, shall be finally decided by reference to arbitration by a Board of Arbitrators appointed in accordance with Clause 26.3.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the “Rules”), or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration Act. The venue of such arbitration

shall e Kolkata and the language of arbitration proceedings shall be English.

26.3.2 There shall be a Board of three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected and in the event of disagreement between the two arbitrators, the appointment shall be made in accordance with the Rules.”

Learned counsel for the applicant has further submitted that since the dispute had arisen, therefore, applicant had served the notice dated 29th September 2022 invoking the arbitration clause and proposing the name of the applicant’s arbitrator, but even after receipt of the said notice, the respondent had not appointed its arbitrator so that the two arbitrators could select the third arbitrator.

Learned counsel for the respondent has not disputed the arbitration clause. He has also not disputed the prayer of the applicant to appoint the sole arbitrator to resolve the dispute. His submission is that the issue relating to limitation concerning the claim be left open for decision by the arbitrator.

In view of the above, keeping all legally permissible objections open to be raised before the arbitrator, the AP is allowed and Mr. Jishnu Saha, senior advocate of this Court, is appointed as Arbitrator to resolve the dispute between the parties, subject to submission of declaration by the proposed 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.

[PRAKASH SHRIVASTAVA, C.J.]