

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Misc. Civil Application (Arbn) No. 378 of 2023

Ms. Neha Constructions, through its proprietor Shri Dilip Belsare
Versus
Chief Project Director, Railway Electrification, Secunderabad (Telangana)
and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri V.V.Bhangde, Advocate for the applicant.
Shri S.A.Choudhari, Advocate for the non-applicant
nos. 1 and 2.

CORAM : ANIL S. KILOR, J.
DATED : 21st JULY, 2023.

On 25th May, 2015 an agreement between applicant and non-applicant no.1 to design, supply, construct and commission 132 KV 2 phase transmission line on double circuit towers from 132 K.V. grid sub-station of MSETCL at Bramhapuri to 132/25 K.V. railway traction sub-station at Nagbhir railway station on total turnkey basis, was executed.

2. It is the case of the applicant that the applicant completed the work as provided under the agreement, however, while executing the contract certain issues arose which delayed execution and

completion of work, which according to the applicant were created due to the negligence of railway employees and could have been avoided. This resulted in financial loss and mental agony and therefore by virtue of agreement clause namely clause 1.2.54 the applicant is requested for appointment of arbitrator by issuing letter dated 10th October, 2022.

3. In the letter in paragraph 2 the applicant has mentioned the points of dispute for which the appointment of arbitrator is necessary.

4. Shri Chaudhari, learned counsel for the non-applicant tried to canvass that once the no claim certificate was issued, now the applicant cannot claim any appointment of arbitrator.

5. However, after going through the no claim certificate, it is evident that it was in respect of final bill. Therefore, it cannot be said that there is no dispute which needs to be referred to Arbitrator as prayed for by the applicant.

6. In the circumstances, the application is allowed.

7. The non-applicant is directed to appoint the arbitrator for resolution of dispute mentioned in the letter issued by the applicant on 10th October, 2022.

7. The non-applicant shall appoint the Arbitrator within six weeks from today.

[ANIL S. KILOR, J.]

Digitally signed
by
SACHIDANAND
KUTTAN NAIR
Date:
2023.07.28
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