

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

**MISC. CIVIL APPLICATION (ARBN) NO. 67 OF 2022**

M/s. Sunflag Iron & Steel Co. Ltd \_\_ Vs. \_\_ M/s. Vedanta Ltd

Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

Mr. A.C.Dharmadhikari, Advocate for applicant

Mr. Sachin Jaiswal, Advocate with Mr. A.S.Ghatole, Advocate for the non-applicant.

**CORAM : AVINASH G. GHAROTE, J.**  
**DATE : 17/02/2023**

The application seeks appointment of an arbitrator. On 7.10.2022, the following order was passed.

“The purchase order dated 12.11.2020 (page 23) as its stand amended by the amendment dated 17.11.2020 (page 22) contains an arbitration clause vide clause No.15 (page 27) which is not disputed by Mr. Jaiswal, learned counsel for the non-applicant. He however, disputes the execution of the second purchase order also dated 12.11.2020 (page 29), which also contains an arbitration clause vide clause No.15 (page 34) and seeks time to place on record his submission, considering which lis the matter on **14.10.2022.**”

There are two purchase orders, the first is dated 12.11.2020 bearing no. 4700141851 (pg.22) and the other also of the same date bearing no. 4700141856.

2] Mr. Jaiswal, learned counsel for the non-applicant does not dispute the execution of both these purchase orders. It is his contention that the first purchase order is a concluded contract, and therefore, he has no objection for appointment of an arbitrator

considering that the dispute exist and in view of the arbitration clause No.15 contained therein (pg.27). In so far as the second purchase order is concerned, it is contended that it is not a concluded contract as an amended purchase order, as well as the letter of credit was not received.

3] A perusal of clause (1) of the general terms and conditions of this purchase order, indicates that it shall constitute contract between the parties and in case the acceptance is not received within two days, there shall be a deemed acceptance.

4] Mr. Jaiswal, learned counsel for the non-applicant has been unable to point out to me any clause in this purchase order, which makes it dependent upon the receipt of the letter of credit as a primary condition for the contract to be concluded, considering which I do not see any justification in the said contention.

5] Since the Clause 15 in both the purchase orders contemplates a sole arbitrator to be nominated by the company, the same would clearly be covered by the mandate of Section 12(2) of the Arbitration & Conciliation Act, resulting in the requirement to appoint a sole arbitrator by this Court, considering which Justice A.B.Choudhari, Former Judge of this Court is hereby

appointed as an arbitrator to decide the dispute between the parties.

6] The parties shall appear before him on 26.2.2023 and present a copy of this order, prior to which the processing charges shall be first deposited in this Court, without which a copy of the order will not be issued.

7] The application is disposed of accordingly.

**JUDGE**

*Rvjalit*