

ORDER SHEET

AP-COM/98/2024

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

SHREE LAXMI IRON AND STEEL WORKS PVT. LTD.
VS
THE EASTERN RAILWAYS AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 13th February, 2024.

Appearance:

Mr. Debnath Ghosh, Adv.

Mr. Avijit Dey, Adv.

Mr. Biswaroop Mukherjee, Adv.

...for the petitioner

Mr. Swatarup Banerjee, Adv.

Mr. Navneet Misra, Adv.

...for the respondents

The Court : This is an application under Section 39 of The Arbitration and Conciliation Act, 1996 which pertains, *inter alia*, to deposits as to costs.

Admittedly, the petitioner (claimant in the arbitration) has paid the major chunk of the costs barring a nominal amount of approximately Rs.54,000/-. The respondent's share of the costs is detailed in paragraph 10 of the application and amounts to Rs.2,58,937.50.

There are at least two Minutes including of 12.05.2022 and 02.09.2022 which record the amounts which are to be shared by the claimant and the respondent.

Learned counsel appearing for the respondent places a Notification of the Ministry of Railways dated 04.09.2019 which provides that the

arbitration fee shall be paid after publishing of the Award. The relevant part of the Notification however also provides that the fee can be given before publishing of the Award on request of the presiding Arbitrator if the presiding Arbitrator confirms that the Award is finalised and signed by the Tribunal and that the Tribunal is in a position to immediately publish the Award.

The present facts would be governed by the latter part of the relevant clause in view of an order passed by the learned Arbitrator on 18.11.2023 recording that the Award is ready to be published but that the respondent has not paid the fees as on the date of the order.

Considering the facts of the present case taken together with the Notification of 04.09.2019, AP-COM/98/2024 is accordingly allowed and disposed of by directing the respondent to put in the amount of Rs.2,58,937.50 within 20th February, 2024.

The Court is informed that the mandate of the learned Arbitrator is due to expire on 27.02.2024.

Learned counsel appearing for the parties shall be at liberty of requesting the learned Arbitrator for other measures including signing of the Minutes as may be required.

(MOUSHUMI BHATTACHARYA, J.)