

OCD-9

ORDER SHEET

AP-COM/632/2024

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

AKA LOGISTICS PVT LTD
VS
DAMODAR VALLEY CORPORATION

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 3rd July, 2024.

Appearance:

Mr. Shounak Mukhopadhyay, Adv.

Mr. Neelesh Choudhury, Adv.

Ms. Anuradha Poddar, Adv.

..for the petitioner

Mr. Somdutta Bhattacharyya, Adv.

Ms. Debomita Sadhu, Adv.

...for the respondent

The Court: The affidavit of service filed in Court today be kept on record.

Upon hearing learned counsel for the parties, it transpires that a dispute has arisen between the parties which is squarely covered by the arbitration clause in the agreement between the parties, embodied in Clause 17 of the contract, which contemplates any dispute(s) or difference(s) arising out of or in connection with the agreement/contract to be referred to arbitration after being attempted to be settled amicably.

In the present case, amicable settlement has failed and the petitioner issued a notice under Section 21 of the Arbitration and Conciliation Act,

1996, thus invoking the said arbitration clause. The dispute is otherwise arbitrable.

It is to be noted that the arbitration clause also mentions an employee i.e., the Chairman, the CEO of the DVC/respondent as the proposed Arbitrator. However, in view of the provisions of the amended 1996 Act, the employee of the DVC, having direct interest in the matter, is disentitled from acting as an Arbitrator. As such, an independent arbitrator is required to be appointed.

Accordingly, AP-COM/632/2024 is allowed, thereby appointing Mr. Biswanath Chatterjee, a member of the Bar Library Club, as the sole Arbitrator to resolve the dispute between the parties, subject to a disclosure being obtained from the said learned Arbitrator in terms of Section 12 of the Arbitration and Conciliation Act, 1996. The remuneration of the learned Arbitrator shall be decided by the Arbitrator within the framework of the Arbitration and Conciliation Act, 1996, read with its Schedules.

(SABYASACHI BHATTACHARYYA, J.)