

OCD-3

AP-COM/868/2024
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION
ORIGINAL SIDE

S K SAMANTA AND COMPANY PRIVATE LIMITED
VS
EASTERN COALFIELDS LIMITED

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 07th November, 2024.

Appearance:

Mr. Abhijit Chatterjee, Sr. Adv.

Mr. Kaushik Sain, Adv.

Mr. Avijit Dey, Adv.

. . .for the petitioner.

Mr. Syed Nurul Arefin, Adv.

Ms. Rashmi Binayak, Adv.

. . .for the respondent.

The Court: The petitioner is a contractor who entered into a construction contract with the Eastern Coal Fields Ltd. The petitioner refers to Clauses 42 and 42.1 and also the notice invoking arbitration. Mr. Chatterjee, learned senior counsel for the petitioner submits that attempts to settle the dispute in terms of Clause 42 were made. Thereafter, notices were issued invoking arbitration. The authority failed to act in terms of the requests and letters written by the petitioner, raising the disputes. According to Mr. Chatterjee, the dispute is with regard to certain unlawful deductions.

Mr. Arafin learned advocate for the respondent submits that the in-house mechanism as prescribed under Clause 42 was not exhausted. Without exhausting such mechanism, reference to arbitration could not be made.

There is an arbitration clause and several requests were made before various authorities, for settlement of the disputes. Mr. Chatterjee contends that those were in compliance of Clause 42. Prima facie, I find that the Area General Manager did not respond to the letter. No committee was also formed by the authority for the purpose of settlement.

The documents annexed to the application, prima facie, reveal an attempt for in-house settlement on the part of the petitioner. The respondent is at liberty to raise the objections before the learned Arbitrator, including the point of limitation, time barred claim, etc.

Under such circumstances, this Court appoints Hon'ble Justice Pinaki Chandra Ghose, former Judge of the Supreme Court of India as the sole Arbitrator to arbitrate the dispute.

This order is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996. The learned Arbitrator shall fix his own remuneration as per the provisions of the Arbitration and Conciliation Act, 1996.

AP-COM/868/2024 is, accordingly, disposed of.

Supplementary affidavit filed in Court is taken on record.

(SHAMPA SARKAR, J.)

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