

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO.14 OF 2021

Kishor Khushalchand Shaha .. Petitioner

Versus

The Executive Engineer (Building .. Respondents
and Transport) & Ors.

...

Mr.Harshad Sathe with Kiran Phakade for the Petitioner.

Mr.H.P.Giri with S.R.Chopade i/b Pankaj Devkar for the
Respondent Nos.1 and 3.

...

CORAM: BHARATI DANGRE, J.

DATED : 17th APRIL, 2024

P.C:-

1. The learned counsel for the Zilla Parishad has raised a preliminary objection about the maintainability of the Petition, seeking appointment of an Arbitrator in the wake of the Article 19 of the Bid Document, which provide for 'Dispute Resolution'. Article 19.3, which provide for Arbitration as a mode for resolution of dispute, is to be resorted to for adjudication of dispute, which is not resolved amicably through conciliation as provided in Articles 19.1 and 19.2.

2. Perusal of Article 19.2 would reveal that an exhaustive procedure for conciliation is specifically set out and, since,

Article 19.3, a mechanism of arbitration, can be chosen only when the conciliation fails, sustaining the objection raised by the learned counsel for the Respondent, I expect the Petitioner to avail the said remedy available under Article 19.2, before the mechanism, as contemplated in Article 19.3 is resorted to.

3. Confronted with the aforesaid situation, the learned counsel for the Petitioner seeks permission to withdraw the Petition, with liberty to initiate steps, as contemplated in Article 19.2 of the Bid document.

Permission granted. The Petition stands disposed off, as withdrawn, with liberty as prayed for.

Needless to state that if the Conciliation fails, the Petitioner is at liberty to invoke arbitration.

(SMT. BHARATI DANGRE, J.)