

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO. 112 OF 2024

Joy Builder

...Petitioner

Versus

Union of India

...Respondents

Mr Hasmit Trivedi, with *Indra Kumar Lahoti, i/b Praxis Legal*, for the
Petitioner.

Ms Shruti Vyas, with *Farina Xavier*, for the Respondent-Union of India.

Mr Ravi Ranjan Upadhyay, *IDSE Executive Engineer , GE (Naval Works), Mankhurd, Mumbai*, is present.

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ARIF S. DOCTOR, J

DATED.

2nd August 2024

PC:-

1. This is the Petition filed under Section 11 and 14 of the Arbitration and Conciliation Act 1996. The circumstances in this case are indeed most peculiar and unfortunate. This is an arbitration that has been pending since 2005. The grievance of the Petitioner is that the same could not be completed/concluded since the officer of the Respondents who was nominated Arbitrator was continuously been transferred as and when the arbitration proceedings were coming to close.

2. Today, Ms Vyas, Learned Counsel appearing on behalf of the Respondent-Union of India agreed to the appointment of an Advocate of this Court to act as the Sole Arbitrator on instruction from Mr Ravi Ranjan Upadhyay, IDSE Executive Engineer , GE (Naval Works), Mankhurd, Mumbai, who is personally present in Court, who was then the Arbitrator.

3. Given this and the peculiar circumstances of this case, I deem it fit to allow the application in terms of prayer clause (a), which reads as follows:

“That this Hon’ble Court may be pleased to confirm the termination of the mandate of the Arbitral Tribunal and appoint a Sole Arbitrator in the matter, not connected with either Party and conversant with construction contracts, to decide the disputes between the Petitioner and the Respondent due to non-settlement and non-payment of the Petitioner’s claims, more particularly listed in Paragraph No. 32(f) of this Petition.”

4. I appoint, Mrs Pooja Khandeparkar, Advocate, to act as the Sole Arbitrator to decide the disputes and differences of the parties on the following terms and conditions:

TERMS OF APPOINTMENT

- (a) **Appointment of Arbitrator:** Mrs Pooja Khandeparkar, Advocate, is hereby nominated to act as a Sole Arbitrator to decide the disputes and differences between the parties.
- (b) **Communication to Arbitrator of this order:**

(i) A copy of this order will be communicated to the learned Sole Arbitrator by the Advocates for the Petitioner within one week from the date this order is uploaded.

(ii) The Advocates for the Petitioner will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses.

Arbitrator **Mrs Pooja Khandeparkar,**
Advocate,

Address 102, Oval House, British Hotel
Lane, Fort,
Mumbai 400 023

Mobile 9821289160

Email patil49pooja@gmail.com

(c) **Disclosure:** The learned Sole Arbitrator is requested to forward, in hard copy or soft copy (or both), the necessary statement of disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to Advocates for the parties as soon as possible. The Advocates for the Petitioners will arrange to file the original statement in the Registry. If the statement is forwarded in soft copy, a print out of the covering email is also to be filed in the registry.

(d) **Appearance before the Arbitrator:** Parties will appear before the learned Sole Arbitrator on such date and at such place as the learned Sole Arbitrator nominates to

obtain appropriate directions in regard to fixing a schedule for completing pleadings, etc.

- (e) **Contact/communication information of the parties.** Contact and communication particulars are to be provided by both sides to the learned Sole Arbitrator. The information is to include functional email addresses and mobile numbers.
- (f) **Fees.** Since the appointment of the Sole Arbitrator is made by this Court, the arbitral tribunal's fees shall be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.
- (g) **Sharing of costs and fees.** Parties agree that all arbitral costs and the fees of the arbitrator will be borne by the two sides in equal shares in the first instance.
- (h) **Consent to an extension if thought necessary.** Parties immediately consent to a further extension of up to six months to complete the arbitration should the learned Sole Arbitrator find it necessary.
- (i) **Venue and seat of arbitration.** Parties agree that the venue and seat of the arbitration will be in Mumbai.

5. Since the matter has already reached at the stage of final arguments and after which the officer in question was transferred, the arbitration proceedings commence from that stage. The Tribunal is granted a period of six months to hear and dispose of the reference.

6. Ms Vyas, at this stage, clarifies that it was not the nominated Arbitrator was transferred continuously of the Respondent-Union of India, however, the same was a transfer in the cause of employment.

7. The Petition is disposed of in these terms. No costs.

(ARIF S. DOCTOR, J)