



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

MISC. CIVIL APPLICATION (ARBN) NO. 1051 OF 2023

Expo Events and Exhibits through its legal Representative
.Vs.

Maharashtra State Handlooms Corporation Ltd., Nagpur and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr Aditya Saluja, Adv. alongwith Mr Kanak Mandpe, Advocate for the applicant
Mr R. S. Khobragade, Advocate for respondent No.
Mr Pankaj Navlani, Advocate for respondent No.2

CORAM : G.A. SANAP J.

DATE : SEPTEMBER 05, 2024

Heard learned Advocate for the parties.
Perused the record and proceedings.

2. This is an application for appointment of the Arbitrator for resolution of the dispute that has arisen between the parties with regard to the payment of the work executed by the applicant in terms of the tender document dated 19.01.2018. It is the case of the applicant that the applicant was a successful bidder in respect of the tender floated by respondent No.1. E-tender was invited from the reputed contractors. The bid of the applicant was accepted and the work for construction of Civil Works Pavilions, Electrification, Theme Pavilions and other services including water

supply as per the schedule allied works including its maintenance at the proposed National Handloom Expo to be held at S.S.P.M.S. Ground, Pune, Maharashtra from 03.02.2018 to 25.02.2018 was allotted to the applicant. The applicant completed work in terms of the conditions of the tender document. The applicant has paid a huge amount for segregating the work. Respondent No.1 has made a part payment. The respondents have not paid the balance amount of around Rs.36,51,976/-. It is stated that despite the claim notice, there was no response. The amount has not been paid.

3. It is submitted that the tender agreement provides for the appointment of an Arbitrator for resolution of the dispute that arises between the parties under this agreement. It is therefore submitted that the Arbitrator be appointed for resolution of a dispute that has arisen between the parties.

4. The respondents have filed their reply. It appears that there is no dispute, as such, with regard to the amount due and payable to the applicant. The only dispute appears to be with regard to the liability of respondent No. 1 or respondent No.2. It appears that there is a dispute *inter se* between respondent Nos. 1 and

2. The applicant in this dispute between the respondents is made to suffer.

5. In my view, the applicant is right in contending that the dispute has to be resolved in terms of the mechanism provided under the agreement.

6. Learned Advocate for the applicant, however, submits that, as per the agreement, the Director, Textiles has been designated as a sole Arbitrator. It is submitted that the Director is the officer of respondent No.2 and therefore may not be an independent Arbitrator for resolution of a dispute. Learned Advocate further submits that for resolution of a dispute, an independent Arbitrator may be appointed. Learned Advocate for the applicant submits that the seat of the Arbitrator shall be at New Delhi.

7. Learned Advocates for the respondents submit that as per Clause-24 of the agreement, all disputes arising between the parties shall be subject to the Nagpur jurisdiction. It is submitted that if this Court is inclined to appoint the Arbitrator then in that event the seat of the Arbitrator shall be at Nagpur.

8. I have gone through the record and proceedings. As far as the arbitration proceeding is concerned, independence and impartiality of the Arbitrator is the hallmark of this proceeding. The Arbitrator proposed in this agreement is the Director of Textiles. There is dispute between respondent Nos. 1 and 2 as to the liability to make the payment to the applicant. In my view, therefore, for resolution of dispute between the applicant and respondents on the one hand and between respondent Nos. 1 and respondent No. 2 on the other hand, it would be necessary to appoint an independent Arbitrator. It is also seen that the agreement provides that all the matters arising between the parties shall be subject to Nagpur jurisdiction. Therefore, the submission made by the learned Advocate for the applicant that the seat of the Arbitrator shall be at New Delhi can not be accepted. In my view, therefore, for the resolution of the dispute arising between the parties, an independent Arbitrator is required to be appointed.

9. Accordingly, this Court proposes to appoint Shri Keshav Bhaskar Zinjarde, District and Sessions Judge, as the sole Arbitrator to resolve the dispute between the parties.

10. The applicant shall deposit Rs.10,000/- (Rupees Ten Thousand Only) with the Registry of this Court within three weeks towards processing charges.

11. The Registrar (Judicial) to seek disclosure as per Section 11(8) and 12(1) of the Arbitration and Conciliation Act, 1996.

12. The Registry shall do the needful within **three weeks.**

(G. A. SANAP, J)

Namrata