

OCD 8

ORDER SHEET
AP-COM/321/2025
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

BHARAT PETROLEUM CORPORATION LIMITED
VS
SANDIP KUILA

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 1st May, 2025.

Appearance:
Mr. Sanjib Kr. Mal, Adv.
Mr. Bimalendu Das, Adv.
Ms. Shomrita Das, Adv.
...for the petitioner

Mr. Debangshu Dinda, Adv.
...for the respondent

The Court:

1. Affidavit of service is taken on record.
2. This is an application for appointment of a learned Arbitrator on the basis of Clause 35 of the LPG Cylinders Transportation Contract Agreement dated 23rd August, 2018. The relevant clause is quoted below:

“Any dispute or difference whatsoever arising out of or in connection with this Agreement, including any question regarding its existence, validity, interpretation, application, meaning, scope, operation or effect or termination there, shall be referred to and finally resolved by arbitration by a Sole Arbitrator,

who will be appointed by Director (Marketing) BPCL and such proceedings shall be conducted in accordance with the Arbitration and Conciliation Act, 1996 for the time being in force or as amended from time to time. The award made in pursuance thereof shall be final and binding on the parties.

The parties hereby agree that the Courts in the city of KOLKATA alone shall have jurisdiction to entertain any application or other proceedings in respect of anything arising under this agreement and any award or awards made by Sole Arbitrator hereunder shall be filed (if so required) in the concerned Courts in the city of KOLKATA only. The arbitration shall be conducted in English language.”

3. The parties agreed that the jurisdiction will be Kolkata. It is submitted by Mr. Mal, that in the course of business the respondent failed and neglected to comply with certain terms and conditions of the agreement. The empty LPG Cylinders which had been received from the dealers had not been returned. According to Mr. Mal, the empty cylinders should have been handed over to the company.
4. Mr. Dinda, learned advocate for the respondent submits that the agreement is still alive and the respondent can perform the obligations. The agreement was extended by exchange of emails. Thus, the dispute has not crystallized. Adjudication by an arbitrator is not necessary. It is further submitted that the claims made by the petitioner were incorrect and he refers to the notice under Section 21 of the Arbitration

and Conciliation Act, 1996 in support of his contention that there are discrepancies in the calculation.

5. In my view, the existence of the arbitration clause which is not in dispute, should be only basis for reference of the dispute to arbitration. The parties agreed that the jurisdiction would be Kolkata. The other issues raised by Mr. Dinda are with regard to the admissibility of the claim. The objections raised before this Court and all other objections that are available, shall be raised before the learned Arbitrator and the learned Arbitrator shall decide all those issues. All questions are left open to be decided by the learned Arbitrator.
6. Under such circumstances, the Court appoints Hon'ble Justice Siddhartha Roy Chowdhury (Retired) Mobile No :- 9434196059, former Judge of this Court to arbitrate upon the disputes between the parties. This appointment is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996. The learned Arbitrator shall fix his/her own remuneration as per the Schedule of the Act.
7. AP-COM/321/2025 is, accordingly, disposed of.
8. Liberty is granted to the respondent to file the vakalatnama within a week.

(SHAMPA SARKAR, J.)