

OCD 6

ORDER SHEET
AP-COM/408/2025
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

HINDUSTAN CONSTRUCTION COMPANY LIMITED
VS
KOLKATA METROPOLITAN DEVELOPMENT AUTHORITY

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 22nd May, 2025.

Appearance:
Mr. Ankan Rai, Adv.
Mr. Ratnesh Kr. Rai, Adv.
Ms. Vipra Gang, Adv.
Ms. Devanshi Deora, Adv.
Ms. Sakshi Kejriwal, Adv.
... for the petitioner

Mr. Sirsanya Bandopadhyay, Adv.
Mr. Avishek Guha, Adv.
Mr. Subhajit Das, Adv.
Mr. Ankus Majumdar, Adv.
... for the respondents

The Court:

1. This is an application for extension of the mandate of the learned Arbitrator.
The learned Arbitrator was appointed by this Court. The first extension was granted on August 13, 2024.
2. Mr. Sirsanya Bandopadhyay, learned advocate for the respondent strongly opposes the prayer for extension on the ground that the conduct of the

petitioner should be taken into account. The petitioner was not diligent in pursuing the proceedings. The prayer for extension should be rejected on this ground. The petitioner did not participate before the learned Arbitrator on various dates, left the fees of the secretarial staff pending and made frivolous allegations against the learned Arbitrator with regard to this jurisdiction. It is further submitted that mandate can be extended only upon the Court satisfying itself that there are sufficient reasons to extend the same. In the case in hand, such cause is absent.

3. Mr. Rai submits that the petitioner undertakes to pay off all the dues.
4. The pleadings are being considered to analyse whether ends of justice demand extension of the mandate. Learned Arbitrator was appointed on June 24, 2022. The learned Arbitrator submitted a declaration under Section 12(1) on July 12, 2022. The proceedings commenced. The first sitting of the arbitral tribunal was held on August 9, 2022. The pleadings were completed on May 1, 2023. The parties led their evidence and affidavits of evidence were filed. The initial period of one year expired on January 11, 2024. Parties consented to the extension of the mandate by a further period of six months. On July 8, 2024, the petitioner filed an application before this Court under Section 29A of the Arbitration and Conciliation Act, 1996, seeking extension of the mandate. Such extension was granted by the Court till February 28, 2025. By a letter dated October 18, 2024, the petitioner sought termination of the mandate of the learned Arbitrator on the ground that the Arbitrator was not entitled to take up

arbitration proceedings as he was the President of the State Commission of Andaman and Nicobar Islands, at the time of his appointment. The rules of service created a bar upon Presidents and Members of the State Commission from undertaking arbitration work. The respondent was asked to respond to the said letter. The said application filed by the petitioner was rejected on October 30, 2024. The petitioner filed an application before this Court to record termination of mandate and appointment of a substitute Arbitrator.

5. By an order dated November 13, 2024 passed in AP-COM/923/2024, the parties were directed to file their affidavits to the application and the petitioner was granted liberty to pray for an adjournment before the learned Arbitrator. By an order dated January 20, 2025, this Court upon hearing the rival contentions of the parties, concluded their hearing and reserved the matter for delivery of judgment. The arbitral proceedings were stayed. Thereafter, this Court delivered judgment on February 26, 2025, rejecting the prayer for termination, inter alia, holding that the mandate of the learned Arbitrator did not terminate. Liberty was granted to the petitioner to pray for extension of the mandate in view of the consumption of the time before this Court due to the pendency of AP-COM/923/2024. The order was challenged before the Hon'ble Apex Court. By order dated March 24, 2025, the SLP was dismissed. The petitioner filed this application on May 13, 2025, for extension of the mandate. The contention of Mr. Bandopadhyay that, sufficient cause for extension of the mandate, has not been shown, is not accepted by the Court. In view of the facts which have been narrated hereinabove, the Court deems it necessary to extend the mandate.

6. Evidence has been completed. Arguments have commenced. The matter was pending before this Court for two months and also before the Hon'ble Apex Court for some time. In the meantime, the mandate expired. This Court is also conscious of the fact that the proceeding before the learned arbitrator had been stayed for two months during the pendency of AP-COM/923/2024.
7. Under such circumstances, ends of justice demand that, the mandate of the learned arbitrator should be extended by a further period of eight months from the date of communication of this order, to enable the learned arbitrator to make and publish his award.
8. AP-COM/408/2025 stands disposed of.

(SHAMPA SARKAR, J.)