

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

AP-COM/924/2024
PRABIR KUMAR GHOSH
VS
UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 7th April, 2025.

Appearance:

Mr. A. Bhuinya, Adv.

...for petitioner.

Ms. Sumita Sarkar, Adv.

...for Union of India.

1. This is an application for appointment of a learned arbitrator, to settle the disputes between the parties.
2. On the last occasion when the matter was taken up for hearing, it was informed by the parties that the matter was pending before the Dispute Redressal Committee [DRC]. The respondents' case was that in view of the alternative dispute redressal mechanism, the application for appointment of arbitrator should not be taken up on that date. Accordingly, the Court adjourned the matter and allowed the parties to explore the possibilities of settlement.
3. Today, it is informed by both the learned advocates for the respective parties that, conciliation has failed and the matter has been dropped by the DRC. Under such circumstances, this Court is of the view that the

prayer for appointment of a learned arbitrator, in accordance with the terms and conditions of the agreement, must be entertained.

4. The petitioner's case is that, as the successful bidder, the petitioner was awarded work for construction of a parking lot. The work order contained reciprocal obligations. The standard form of contract being the dotted line contract, prepared by the respondents, was made applicable to the work order issued to the petitioner. Clause 25 of the General Conditions of Contract deals with dispute resolution. According to the petitioner, disputes arose with regard to the hindrances and obstructions which were faced by the petitioner during execution of the work. Delay was caused due to such hindrance. Ultimately, the contract was terminated by the respondents. The petitioner approached various authorities for an amicable settlement, which failed. Lastly, the DRC also could not settle the matter and mutual agreement could not be arrived at.
5. A notice invoking arbitration was issued by the petitioner on 4th July 2024, which the respondent received. The postal track report indicates delivery. As per Clause 25 of the GCC, the petitioner was required to approach one of the authorities for appointment of a sole arbitrator. The said mechanism failed. In any event, a party who is incompetent to act as an arbitrator, also cannot appoint the arbitrator. This is contrary to the entire concept of party autonomy.
6. The application is disposed of by appointing Mr. Suman De, learned Senior Advocate, as the learned arbitrator, 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.

(SHAMPA SARKAR, J.)

S. Kumar / R.D. Barua