

ORDER

OC-16

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/935/2024
VRC CONSTRUCTIONS (INDIA) PRIVATE LIMITED
VS
BHARAT HEAVY ELECTRICALS LIMITED

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 7th April 2025.

Appearance:

Mr. Soham Sen, Adv.
Mr. Soumik Chakraborty, Adv.
... for petitioner.

Mr. Rohit Das, Adv.
Ms. Kishwar Rahman, Adv.
Ms. Sristi Roy, Adv.
... for respondent.

1. As the matter was pending conciliation, which is the procedure prior to invocation of the arbitration as prescribed in the contract between the parties, the matter had been adjourned. Today, both the learned advocates for the respective parties submit that conciliation has failed.
2. The dispute relates to the petitioner's claim under different heads in respect of work executed, pursuant to a notice inviting tender. The NIT was floated by the respondent on 26th September 2013. Pursuant to the tender process, the contract was entered into between the parties on 14th January 2015. Clause 42 of the work order dated 1st November 2014, provided for arbitration and conciliation of disputes. The clause provided that if an amicable settlement was not reached between the parties in the

event of any dispute or difference arising out of their rights and liabilities and also other issues in respect of execution of the contract or interpretation of the terms thereof, the matter shall be referred to the sole arbitration of the arbitrator, to be appointed by the respondent. The provisions of the Arbitration and Conciliation Act, 1996 would apply and the venue of arbitration shall be the place from which the contract was issued or such other place as the arbitrator, at his discretion, may determine. It is submitted that the contract was issued from Salt Lake, Kolkata and this Court is the referral court.

3. Disputes cropped up between the parties, allegedly when payments were not received by the petitioner, despite the petitioner having completed the work. According to the respondent, the claims were time barred and beyond the terms and conditions of the contract.
4. The issue before the referral court is only with regard to, prima facie, satisfaction that there exists an arbitration clause in the agreement between the parties. Clause 42 provides for arbitration, in case of failure of amicable settlement. Other issues with regard to admissibility of the claim, the arbitrability of the issue etc., are to be raised before the learned arbitrator. The learned arbitrator is to decide the matter in accordance with the evidence to be led by the parties.
5. Keeping all these issues open, the Court appoints Mr. Sarbajit Mukherjee, learned Advocate, Bar Library Club (Mobile No. 9830019163) 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.

6. AP-COM/935/2024 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)

S. Kumar / R.D. Barua