

OCD-28

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/1029/2024

M/S. SHREE RADHEY CONSTRUCTION
VS.
UNION OF INDIA

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 2nd January, 2025.

Appearance:
Mr. Aurin Chakraborty, Adv.
Mr. Jatan Monga, Adv.
...for petitioner
Mr. Mukesh Kr. Gupta, Adv.
Mrs. Rini Bhattacharjee, Adv.
...for the respondent

The Court : This is an application under Section 11 of the Arbitration and Conciliation Act, 1996.

The petitioner prays for appointment of an arbitrator on the ground that the request made to the petitioner to nominate an arbitrator from the panel suggested by the Railways was unworkable in view of the decision of the Hon'ble Apex Court against appointments of arbitrators from a panel supplied by the respondent.

Reference is made to clause 64[1][i] of the General Conditions of Contract. The clause provides that if disputes and differences arise between the parties, the aggrieved party may demand in writing that the disputes or differences be referred to arbitration, apart from those disputes which are

exempted by the agreement itself. It is submitted further that amicable settlement of the disputes failed as the Railways' representative was unavailable at the pre-arbitration meeting. The notice invoking arbitration clearly enumerated the nature of disputes.

It appears that the Railways responded to the said notice by a letter dated November 12, 2024 and suggested names of four retired railway officials. The petitioner was asked to choose from the same. The petitioner did not accept the same. Again, by a subsequent notice dated December 18, 2024, names of four other retired officials were suggested and the petitioner was asked to nominate from the same. The law has been settled. Appointment of an arbitrator from a panel suggested by the respondent is no longer permissible.

Under such circumstances, this application is entertained.

In view of the above, this Court appoints Mr. Varun Kothari (Mobile No.8017933435), learned Advocate, Bar Library Club, as the sole arbitrator, subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996. The learned arbitrator shall fix his own remuneration as per the schedule of the Act.

This Court has not gone into the merits of the matter and the respondent is at liberty to raise all points as may be available.

AP-COM/1029/2024 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)