

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION APPLICATION NO.248 OF 2024

Hingn Kelzar Roadways Pvt. Ltd.	...Applicant
Versus	
Executive Engineer Public Works	
Division No.2 & Ors.	...Respondents

WITH
COMMERCIAL ARBITRATION APPLICATION NO.409 OF 2024

Patansawangi Hingna Roadways Pvt. Ltd.	...Applicant
Versus	
Executive Engineer Public Works	
Division No.2 & Ors.	...Respondents

Mr. Rajesh Roshan *a/w. Vijay Singh and Digvijay Kachare i/b Desai Legal LLP, for Applicant.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 24, 2025

PC :

1. On January 8, 2025, this Court had passed an order holding that these Applications under Section 11 deserve to be allowed. But, as a matter of last chance the Respondents were given one week's time to nominate an Arbitrator in terms of Article 38 of the Concession Agreement dated October 15, 2018.

2. Today, when the matter is called out, it is seen that till date no nomination has been made by the Respondents. Besides, despite service, the Respondents have not entered appearance. Consequently, since the Respondents have not made a nomination of an arbitrator till date, in terms of paragraph No.7 of the order passed on the last occasion, this Application is *finally disposed of*, appointing the nominee arbitrator on behalf of the Respondents, in the following terms:

A] Ms. Arti Raghavan, an advocate of this Court Court, is hereby nominated the Arbitrator on behalf of the Respondents to adjudicate upon the disputes and differences between the parties arising out of and in connection with the Agreement referred to above;

B] A copy of this Order will be communicated to the Arbitrator nominated on behalf of the Respondents by the Advocates for the Applicant within a period of one week from today. The Applicant shall provide the contact and communication particulars of the parties to the Arbitral Tribunal along with a copy of this Order;

C] The Arbitrator nominated on behalf of the Respondents is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the Advocates for the Applicant so as to enable them to file the same in the

Registry of this Court. The Registry of this Court shall retain the said Statement on the file of this Applicant and a copy of the same shall be furnished by the Advocates for the Applicant to the Respondents. In view of the Court having nominated the Arbitrator on behalf of the Respondents, the two Arbitrators appointed would now engage to appoint a Presiding Arbitrator and proceed with the Arbitral proceedings in accordance with law.

3. The parties shall approach the two nominated Arbitrators to take instructions about next steps to be taken in this regard within a week's time from the date of upload of the order on this Court's website.
4. With the aforesaid directions, both these Applications are finally disposed of.
5. Needless to say, nothing contained in this order is an expression of an opinion on merits of the matter or the relative strength of the parties. All issues on merits are expressly kept open to be agitated before the arbitral tribunal appointed hereby.

6. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]