



Arb. Appeal No.13 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2025

CORAM

THE HONOURABLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

Arb Appeal No.13 of 2025

Pioneer Electrical Works
Rep by its Partner, Umesh M. Shah,
Plot No.58, Sector 2,
Behind Kalapi Printers,
Vasai Taluka Industrial Co-Op Estate Ltd,
Gauripada, Vasa (E), Dist. Palghar - 401208.

Appellant(s)

Vs.

Bharatiya Nabhikiya Vidyut Nigam Ltd,
A Government of India Enterprise,
Rep by its Sr. Manager(CMM),
Kalpakkam Post, Kancheepuram District
Tamil Nadu – 603 102.

Respondent(s)

PRAYER: Arbitration Appeal filed under Section 13(1A) of the Commercial Courts Act, 2015 read with Section 37 of the Arbitration and Conciliation Act, 1996, to set aside the order dated 06.09.2024 passed in Arbitration O.P.No.146 of 2019 on the file of Principal District Judge, Chengalpattu District.



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For Appellant(s):

Mr.P.J. Rishikesh

For Respondent(s):

Mr.S.Senthilnathan

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

This is an appeal impugning an order dated 06.09.2024 passed by the Principal District Judge, Chengalpattu District. By the impugned order, the Principal District Judge was pleased to dismiss the petition under Section 34 of Arbitration and Conciliation Act, 1996 [the Act].

2. Shri Senthinathan, who is present in court in view of the notice given by appellant, undertakes to file vakalatnama within one week from today.

3. With the assistance of appellant's counsel, we considered the impugned order. Petition under Section 34 of the Act was filed against the arbitrator holding that the claim was barred by limitation. Before the Principal District Judge, appellant had raised a ground that the claim was not barred by limitation. It was also pleaded that it was a case of unilateral appointment and the arbitrator was also an ex-employee of respondent



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and, hence, the award itself was vitiated.

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4. The Principal District Judge, in our view, has not dealt with any of the submissions made by appellant. The court has not answered as to why appellant's claim is barred by limitation, or why the arbitrator was correct, and on the appointment of arbitrator, has not given any finding at all. In fact, we find the Principal District Judge having gone on the basis as to whether principles of natural justice have been breached.

5. When we expressed our *prima facie* view, Shri Senthilnathan, appearing for respondent, in fairness, and as an officer of the court, agreed that the impugned order dated 06.09.2024 will have to be interfered with.

6. Mr.Rishikesh stated that inasmuch as the appointment of the Arbitrator was unilateral and in contravention of the law laid down by the Supreme Court in ***TRF Ltd v. Energo Engineering Projects Ltd***¹ and ***Perkins Eastman Architects DPC and another v. HSCC (India) Ltd***², respondent should agree to setting aside of award and agree to

¹ (2017) 8 SCC 377

² (2020) 20 SCC 760



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appointment of a new arbitrator.

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7. Shri Senthilnathan for respondent stated that he is in no position to comment, as he will have to take instructions. Shri Senthilnathan states he shall take instructions and inform Mr.Rishkesh when the matter is taken up before Principal District Judge, Chengalpattu.

8. In view thereof, and as we are also satisfied, without going into the merits of the matter, we quash and set-aside the impugned order dated 06.09.2024 and remand the matter for *de novo* consideration. All rights and contentions are kept open.

Arbitration Appeal is disposed of accordingly. There shall be no order as to costs.

(K.R.SHRIRAM, C.J.)

(MOHAMMED SHAFFIQ, J.)

17.03.2025

Index : Yes
NC : Yes
sasi/mka

To:

1.The Principal District Judge,
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2.The Senior Manager(CMM),
Bharatiya Nabhikiya Vidyur Nigam Ltd.,
Kalapakkam Post, Kancheepuram District.



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AND
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