

ORDER

OCD – 26

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/17/2026
RESOURCE ADVERTISING MARKETING SERVICES PRIVATE LIMITED
VS
UNION OF INDIA

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date: 4th February 2026.

Appearance:-

Mr. Shiv Shankar Banerjee, Adv.

Ms. C. Roy, Adv.

Mr. Partho Proteem Das, Adv.

Mr. Siddharth Chamria, Adv.

...for petitioners.

Mr. Shiv Chandra Prasad, Adv.

Ms. Sumita Sarkar, Adv.

...for respondent.

The Court:- The petitioner has filed the present application under Section 14 of the Arbitration and Conciliation Act, 1996, challenging the unilateral appointment of the arbitrator by the respondent and praying for appointment of an independent arbitrator in substitution of the current sole arbitrator who is an employee of the respondent.

Learned counsel for the petitioner submits that the arbitration commenced as per the unilateral appointment clause of the contract between the parties. The respondent initially appointed Mr. N. K. Akataruzamann as the sole arbitrator to adjudicate the disputes between the parties. Thereafter, from time to time, Mr. R. K. Yadav, Mr. V. K. Gupta, Mr. Rajiv Gupta and Mr. Shibram Majhi have been appointed as the sole arbitrator. All these personnel are employees of the respondent. The petitioner was participating in the arbitration proceedings. Every now and then, the respondent changed the arbitrator till date. All of them were

employees of the respondent, which is against the settled principle of law. Hence, the petitioner has filed the present application seeking substitution of the arbitrator at this stage. In this context, the Hon'ble Supreme Court has categorically held that unilateral appointment of arbitrator gives rise to justifiable doubt as to the independence and impartiality of the arbitrator and such clause is in violation of Article 14 of the Constitution of India.

Applying the aforesaid principle to the facts of the present case, this Court is of the considered view that appointment of the learned sole arbitrator having been made unilaterally by one party stands vitiated by law and the same is set aside.

At this stage, learned counsel for the parties jointly submit that they are agreeable to the appointment of Hon'ble Justice I. P. Mukerji (retired) as the sole arbitrator to adjudicate the disputes between the parties. The learned arbitrator shall fix his remuneration in terms of the Fourth Schedule of the Arbitration and Conciliation Act, 1996. The parties shall be at liberty to raise and agitate all their claims and counter-claims before the learned Sole Arbitrator, who shall decide the same independently and strictly in accordance with law, without being influenced by any of the observations made in this judgment.

With the above direction, the present petition is disposed of.

A copy of this order shall be communicated to the sole arbitrator to act accordingly.

[GAURANG KANTH, J.]