



1 IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISC. CIVIL APPLICATION (ARBN) NO. 516 OF 2025

M/s Lokesh Infraprojects Pvt. Ltd. Nagpur thr. its Authorized Officer
Vs
Western Coalfields Ltd. And others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R. A. Jain, counsel for applicant.
Mr. N.G. Moharir, counsel for respondent Nos. 1 to 5.

CORAM : PRAVIN S. PATIL, J.
DATE : 25/02/2026

1. This application is filed by the applicant for seeking direction to appoint an Arbitrator for adjudicating of disputes and claims between the applicant and respondents, in terms of Clause 13 of e-Tender Notice No. 44/2020-2021 issued by respondent/Western Coalfields Limited.
2. The applicant came with a case before this Court stating that applicant/company is engaged in the business of road construction, mining, excavation, and also in rent out forklifts, excavators, tippers, dumpers and other equipment used for road construction and mining purposes. The applicant carries on its business all over India.
3. On 20/01/2021, respondent/Western Coalfields Limited, which is public sector undertaking involved in the extraction and sale of coal, floated e-Tender bearing No. 44/2020-2021 for transportation of ROM Coal from Heap No. A8 and A10 for hiring of tippers, loaded by hired Pay Loader and unloading into hopper of CHP of Naigaon OCM.
4. The present applicant participated in the tender process and being successful in the bidding process, was issued a Letter of

Acceptance (LOA) dated 18/03/2021 by the respondent. As per the said LOA, total value of work was Rs.16,11,84,000/- (Rupees Sixteen Crore Eleven Lakh Eighty Four Thousand Only). The period of contract was 730 days from the date of commencement, after submission of performance security.

5. After issuance of the LOA, the work order was issued to the applicant on 13/04/2021 and immediately thereafter, a commencement certificate was issued on 18/04/2021.

6. The applicant accordingly performed the work from March-2021 to March-2022. During this period, he received the communication regarding target being not achieve during the period which was explained by the applicant stating various hindrances recorded in the hindrance register. Such communication were going on for further period and the respondent time and again raised an issue of shortfall in targeted quantity and non-deployment of vehicles at the site.

7. Lastly, on 12/12/2022, respondent issued a show cause notice wherein they have stated that performance of the applicant was less then 70% from July 2022 to November 2022 and accordingly, they found that applicant failed to improve his performance. As such, applicant was asked to explain why further action as stated in the NIT should not be taken against the applicant in the matter. The applicant was accordingly called personally on 26/12/2022 at AGM Office, Wani Area at Urjagram Tadali.

8. On 08/02/2023, the applicant submitted a detailed reply pointing out all the hindrances and difficulties being faced while executing the contract. However, without considering the justification

furnished by the present applicant, the respondent by his order dated 18/03/23, terminated the contract of the applicant as per the conditions of the contract.

9. Thereafter, on 17/04/2023, the applicant submitted a request for settlement of disputes to the concerned Engineer-in-charge as per Clause-13 of the agreement. However, respondent did not respond positively for the settlement of the dispute between them. Consequently, the applicant was constrained to invoke Clause-13A, which deals with settlement of disputes through arbitration, and issued notice dated 14/09/2024 by proposing the name of learned Advocate, Mr. Vivek Bhangade as a neutral person who should be appointed as an Arbitrator to arbitrate upon the dispute between the parties.

10. The respondent, by reply dated 16/10/2024 replied the notice stating that, without exhausting the in-house mechanism, it was not open for the applicant to invoke the sole arbitration clause and thereby it is stated that the notice was premature.

11. It was further stated that the steps required under Section 12(5) of the Arbitration and Conciliation Act, 1996 are required to be complied with, and therefore, the notice issued by the applicant and the proposed name of sole Arbitrator was denied.

12. In this background, the applicant approached this Court seeking appointment of an Arbitrator.

13. This Court, considering the fact that there is a dispute which needs to be resolved through an Arbitrator, issued notice to the respondents in the matter.

14. In response to the said notice, learned counsel appearing for the respondents fairly stated that, as there is a dispute existing between the parties, the same can be resolved by appointing a neutral Arbitrator. Hence, he consented to appoint a neutral Arbitrator in the matter.

15. In the circumstances, as there is consent of respondents to appoint an Arbitrator as per the prayer made by the applicant in the application. Accordingly, I proceed to pass the following order:-

ORDER

- a) I hereby nominate Smt Justice Vasanti A. Naik (Former Justice of Bombay High Court) as an Arbitrator in the matter. The learned Arbitrator shall adjudicate the disputes between the parties that are subject matter of the present application.
- b) Registry is directed to obtain the disclosure statement as per Section 11(8) and 12(1) of the Arbitration and Conciliation Act, 1996 within four weeks and place the same on record.
- c) List this matter after four weeks.

(PRAVIN S. PATIL, J.)