

(2001) 09 JH CK 0059
In the Jharkhand High Court
Case No : LPA No. 284 of 2001

Bihar State Financial Corporation and Others	APPELLANT
Vs	
Automobile Ancillary Industries, Jamshedpur	RESPONDENT

Date of Decision : 13-09-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 09 JH CK 0059

Hon'ble Judges : Vinod Kumar Gupta, C.J.;D.N. Prasad, J

Bench : Division Bench

Advocate : A. Sahay, for the Appellant; M.S. Mittal, for the Respondent

Judgement

1. This appeal was heard in part yesterday (12th September. 2001). During the course of hearing, we observed that certain disputed question of facts arise for adjudication and consideration. Various contentions were urged before us by the learned counsel for the parties which were actually based on the certain disputed facts in the sense that while one party was asserting the claim in its favour, the other was trying to deny the same. We accordingly, felt that in writ proceedings it cannot be possible to decide these disputed questions and the best course of action available to the parties would be to send them to arbitration so that the arbitrator may, as a Court of fact and law, decide these disputed questions and conclude the proceeding. We are of the view that a Single Member Arbitral Tribunal should be an obvious choice for this purpose. We, accordingly, adjourned the matter for today. When the matter has appeared today, the parties through their learned counsel, have very fairly agreed to the aforesaid suggestion and submitted before us that we should send the matter to arbitration for final adjudication of the matter. Actually the parties have also agreed with the choice of arbitrator. They have suggested to us that Sri Sajjan Kumar Reddy. Chartered Accountant, Jamshedpur, be appointed as sole arbitrator/one man Arbitral Tribunal.

2. Based upon the aforesaid observations, submissions and agreement of the

parties, this appeal is, accordingly, disposed of. The judgment of the learned Single Judge is set aside. The entire matter in dispute which formed the subject matter of the writ application and the present appeal, is referred to the aforesaid arbitrator for his adjudication. The parties shall be at liberty to file their claim/ counter claim before the arbitrator. The arbitrator shall hear the parties immediately and proceed to decide the matter in accordance with the provisions of the Arbitration and Conciliation Act, 1996 very expeditiously and if possible, within a period of three months from the date of reference. It shall be open to the parties, either of them, to communicate this order to the arbitrator and make a request to him to enter upon reference immediately.

3. Nothing said by the learned Single Judge in the judgment under appeal shall be construed as any expression of opinion by this Court. The arbitrator, therefore, shall not be influenced by any finding or observation contained in the said Judgment.

4. Until the Award is passed by the arbitrator, the appellants shall not take any coercive steps against the respondent but once the Award is passed, this order shall cease to operate and parties thereafter shall be governed by the terms of the Award. The arbitrator shall be at liberty to fix his fee which the parties shall, at the first instance, pay to him in equal shares.

5. Disposed of accordingly.