

(2021) 11 PAT CK 0048
In the Patna High Court
Case No : Request Case No. 173 Of 2018

M/S Rai Path Pariwahan

APPELLANT

Vs

Indian Oil Corporation Ltd

RESPONDENT

Date of Decision : 17-11-2021

Acts Referred:

Citation : (2021) 11 PAT CK 0048

Hon'ble Judges : Sanjay Karol, CJ

Bench : Single Bench

Advocate : Jitendra Kumar Roy, Anil Kumar Sinha

Judgement

On 25th of August, 2021, the Court had passed the following order:-

"As per office note, the Arbitrator appointed, vide order dated 25th of October, 2019, has refused to accept the record sent by the Registry.

Noticeably, on 25 th of October, 2019, the Court had passed the following order:-

"The nominated Arbitrator Shri Akhilesh Kumar Jain has expressed his inability to proceed with the matter and enter upon the dispute in view of his appointment as Chairman of the Bihar State Religious Trust Board. Accordingly, the order dated 10th May, 2019 is modified and I in view of the provisions of the Arbitration and Conciliation Act, 1996 and Appointment of Arbitrators by the Chief Justice of Patna High Court Scheme, 1996 hereby appoint Shri Subhas Chandra Chourasia, District & Sessions Judge (Retd.) as an Arbitrator to enter upon the dispute and render is award. The Registrar General to take steps accordingly for information as well as for sending the records to the Arbitrator.

The application stands disposed of accordingly."

In view of the intervening developments, the order dated 25 thof October, 2019 is modified to the extent that this Court hereby, in view of the provision of the Arbitration and Conciliation Act, 1996, appoints Shri Manoj Shankar, District & Sessions Judge, (Retd) to enter upon the dispute inter se the parties, arising out

of the agreement dated 6th of October, 2021 and render his Award.

All pleas and issues raised, on merits, are left open to be considered and decided by the learned Arbitrator.

Learned Arbitrator shall be entitled to fees as per the provision of the Arbitration & Conciliation Act, 1996.

Since the dispute arises out of an agreement of the year 2012, the hearing be expedited.

Parties undertake to fully cooperate and not take any unnecessary adjournment.

The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode.

It is expected of the learned Arbitrator to adjudicate the disputes expeditiously.

Joint Registrar (List) is directed to communicate the order to the learned Arbitrator.

Learned counsel for the parties also undertake to communicate the order to the learned Arbitrator. In fact, they volunteered to appear before him, through digital mode on 20 th of September, 2021 and apprise him of the passing of the order.

Parties shall file their statement of claims before the learned Arbitrator on such date of hearing which he may fix, as per mutual convenience.

Accordingly, order dated 25.10.2019 is modified to the extent indicated above."

As per office note, the appointed learned Arbitrator, namely, Shri Manoj Shankar, District & Sessions Judge,(Retd), vide communication dated 14th September, 2021 sent to this Court, has expressed his inability to proceed with the matter and enter upon the dispute in view of his appointment as Presiding Officer of the Industrial Tribunal, Patna. The said communication is reproduced as under:-

As such, in view of the intervening developments, order dated 25th of August, 2021 is modified to the extent that this Court hereby, in view of the provision of the Arbitration and Conciliation Act, 1996, appoints Shri Rakesh Pati Tiwari, District & Sessions Judge,(Retd) to enter upon the dispute inter se the parties, arising out of the agreement dated 6th of October, 2012 and render his Award.

All pleas and issues raised, on merits, are left open to be considered and decided by the learned Arbitrator.

Learned Arbitrator shall be entitled to fees as per the provision of the Arbitration & Conciliation Act, 1996.

Since the dispute arises out of an agreement of the year 2012, the hearing be expedited.

Parties undertake to fully cooperate and not take any unnecessary adjournment.

It is expected of the learned Arbitrator to adjudicate the disputes expeditiously.

Joint Registrar (List) is directed to communicate the order to the learned Arbitrator.

Learned counsel for the parties also undertake to communicate the order to the learned Arbitrator. In fact, they volunteered to appear before him on 08.12.2021 and apprise him of the passing of the order.

Parties shall file their statement of claims before the learned Arbitrator on such date of hearing which he may fix, as per mutual convenience.