

(2013) 11 RAJ CK 0099

In the Rajasthan High Court

Case No : Civil Miscellaneous Arbitration Application No. 64 of 2011

M/s. Rameshwar Lal Mana Ram

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 08-11-2013

Acts Referred:

Citation : (2014) 1 WLN 431

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Advocate : Akshat Verma and Mr. Harish Purohit, for the Appellant; K.R. Saharan, Dy. Government Counsel, for the Respondent

Final Decision : Disposed Off

Judgement

Govind Mathur, J.—A work-order was granted in favour of the applicant on 18.09.1997 for construction of a building to be utilized as Pump Station near canal. Due to certain unavoidable reasons some delay occurred in completion of work, which as a matter of fact was required to be accomplished before 10.05.1999. Suffice to mention that as per Clause 45 and Clause 45-A of the agreement arrived between the parties the liability with regard to variance in labour and raw material cost was to be born by the respondents. The applicant by submitting several representation claimed for escalated cost of labour and other raw-material but of no consequence. Ultimately a notice dt. 04.03.2009 (Annex. 17) was served upon the respondents with a request to appoint an independent arbitrator to resolve the dispute existing. On being not getting any positive response, this application is preferred. It is asserted by learned counsel for the applicant that in the agreement arrived at between the parties a clause for arbitration exists and, therefore, to resolve the dispute about right of the applicant to have escalated cost of labour and raw material utilized deserves to be adjudicated by arbitral proceedings.

2. A reply to the application has been filed on behalf of the respondents accepting that an agreement was executed between the parties and as per that

the applicant was required to construct building for installation of pump station prior to 10.05.1999, but failed to do so. The applicant as per the respondents is not entitled for price variation in view of Clause 45-B of the condition of contract.

3. Heard rival submissions.

4. It is not in dispute that a work-order was issued in favour of the applicant in pursuant to a contract which is having an arbitration clause for redressal of grievance of either parties by arbitral proceedings. The issue as to whether the applicant is entitled for variation in price or not in light of Clause 45-B of the contract is required to be adjudicated by an arbitrator and not by this Court.

5. Having considered this fact and the factual background noticed in the preceding paras, I am inclined to appoint an arbitrator for redressal of the grievance as referred in notice dt. 04.05.2009.

6. Having considered the nature of dispute and all other ancillary facts, I deem it appropriate to appoint Shri S.C. Patni, Retired Superintending Engineer-Irrigation, resident of 6-A-4, Jai Narayan Vyas Colony, Bikaner (Raj.) as the sole arbitrator to adjudicate the dispute said to be existing between the parties as referred in notice dt. 04.05.2009. Shri S.C. Patni, Arbitrator appointed shall be entitled for remuneration and other perks in accordance with the Alternative Dispute Resolution, 2009 prescribed by the Rajasthan High Court. The Registry is directed to send necessary intimation to Shri S.C. Patni, Arbitrator appointed, along with copy of this order within a period of 15 days from today.