
(2020) 11 UK CK 0031

In the Uttarakhand High Court

Case No : Arbitration Application No. 31 Of 2014

M/s Uttarakhand Vidyut Nirman Swayatt Sahkarita

APPELLANT

Vs

Uttarakhand Power Corporation Ltd.

RESPONDENT

Date of Decision : 05-11-2020

Acts Referred:

Arbitration And Conciliation Act, 1996 — Section 11(6), 11(8)

Citation : (2020) 11 UK CK 0031

Hon'ble Judges : Ravi Malimath, J

Bench : Single Bench

Advocate : Sudhir Kumar, Dharmendra Barthwal

Final Decision : Disposed Of

Judgement

Ravi Malimath, J

1. The petitioner is before this Court, in this petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short "the Act"), seeking appointment of a sole Arbitrator to resolve the disputes that have arisen between the parties.

2. Learned counsel for the petitioner contends that a contract was entered into between the petitioners and the respondents on 07.01.2006. In respect of the said Contract, certain disputes have arisen between the parties and as such the petitioner claims that the sole Arbitrator be appointed to resolve the disputes that have arisen between the parties. In that regard, Clause 38 of the Contract dated 07.01.2006, which relate to Arbitrator, is referred to by the learned counsel for the petitioner. The said clause provides for settlement of disputes through Arbitrator. Clause 38 of the Contract reads as under :-

38. If any dispute, difference or controversy shall at any time arise between the Contractor on the one hand and the U.P. Electricity Board and the Engineer of the Contract on the other hand Contract, or as the true construction, meaning and intent of any part or condition of the same or as to the manner of execution or as to the quality or description of or payment for the same, or as to the true intent,

meaning, interpretation construction or effect of the clause of the contract specification or drawings or any of them or as to anything to be done committed or suffered in pursuance of the contract or specification, or as in the mode of carrying the contract into effect or as to the breach or alleged breach or as to obviating or compensating for the commission any of such breach or as to any other matter or thing, whatsoever commenced with or arising out of the contract, and whether before or during the progress or after the completion of the contract, such, question, difference or dispute shall be referred to adjudication to the Chairman U.P. Electricity Board or any other person nominated by him on this behalf and his decision in writing shall be final binding and conclusive. The purchaser shall pay to the Contractor all reasonable expenses incurred..

3. Shri Dharmendra Barthwal, learned counsel for the respondent, does not dispute the existence of an Arbitration clause in the Contract dated 07.01.2006.

4. When this Court asked learned counsels for both the parties to suggest a common name of a person who could be appointed as an Arbitrator, both Shri Sudhir Kumar, learned counsel for the petitioner and Shri Dharmendra Barthwal, learned counsel for the respondent, would submit that Shri K.D. Bhatt, retired District Judge, R/o House No. 297 Lane No. 5, Madhur Vihar, Ajabpur Khurd, Dehradun, may be appointed as the sole Arbitrator.

5. As learned counsels on either side are in agreement, Shri K.D. Bhatt, retired District Judge, R/o 2 House No. 297 Lane No. 5, Madhur Vihar, Ajabpur Khurd, Dehradun, is appointed as an Arbitrator after his disclosure in writing is obtained in terms of Section 11(8) of the Act; and only after receipt thereof shall his appointment, as an Arbitrator, come into force.

6. On his giving consent to arbitrate the disputes between the parties, Shri K.D. Bhatt, retired District Judge, R/o House No. 297 Lane No. 5, Madhur Vihar, Ajabpur Khurd, Dehradun, shall enter reference, and shall pass an award in accordance with law. The learned Arbitrator shall fix his fees in consultation with both the parties.

7. The arbitration application is disposed-off accordingly.