

(2012) 12 JH CK 0009
In the Jharkhand High Court
Case No : A.A. 8 of 2011

M/s. Vijeta Projects and Infrastructures Ltd.	APPELLANT
Vs	
East Central Railway	RESPONDENT

Date of Decision : 14-12-2012

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 11(6)(c)

Citation : (2013) 2 AJR 402

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Advocate : Kumar Vimal, A.K. Sah and Raunak Sahay, for the Appellant;
Ratnakar Bhengra, for the Respondent

Judgement

Dhirubhai Naranbhai Patel, J.—Counsel for the petitioner submitted that these applications have been preferred u/s 11(6)(c) of the Arbitration and Conciliation Act, 1996 when other arbitrators, who were appointed by the respondent-Railway, namely Shri M.R. Kumar, Shri J.K. Verma, Shri Om Prakash, Sri S. Bhattacharya and Sri Ram Kripal, who were employees of the respondent-Railway, failed to perform their duties as Arbitrators. Some more changes have been made on 9th November, 2010, but, in spite thereof, the dispute could not be resolved and, therefore, let a retired Judge of this Hon'ble Court may be appointed as arbitrator, because the dispute is of the year 2007. Counsel for the respondent has submitted that in fact they have already appointed their high ranking officials, but for some reason, the dispute has not been decided as yet and, therefore, they have no much objection if any retired Judge of this Court is appointed as arbitrator to bring an end to the dispute between the parties.

2. Learned counsel for the applicant has submitted that whenever there is a change in the panel of arbitrators, at least the applicant should also be informed and his consent should be taken, but, without any notice and consent, every now and then, the panel of arbitrators has been reshuffled by the respondent and, therefore, let any retired Judge of this Hon'ble Court may be appointed as

Arbitrator so that the matter can be decided as early as possible.

3. In view of the limited submissions and looking to the dispute between the parties and looking to the arbitration clause at Clause 64(1)(i) of the Annexure-1 and similar is the clause in another arbitration application and looking to the fact that there is already long drawn litigation between the parties and dispute between the parties and time and again the panel of arbitrators, who are employees of Railway, have been reshuffled unilaterally by the respondent-authorities and even thereafter the dispute has not been settled. I therefore, appoint Hon''ble Mr. Justice R.K. Merathia, a retired Judge of this Court, as arbitrator for resolving the dispute between the parties as referred in the arbitration applications. Counsel for both sides submitted that they shall cooperate the hearing before this Arbitrator so that the dispute may be resolved at the earliest possible time. Counsel for the respondent has also agreed to the aforesaid appointment of the Arbitrator. I request the Arbitrator to resolve the disputes between the parties as expeditiously as possible and practicable and preferably within a period of six months. Both the parties have agreed to approach themselves before Hon''ble Mr. Justice R.K. Merathia, a retired Judge of this Court, on 22nd December, 2012 at 11.00 a.m.

4. I hereby direct the Registry of this Court to send a copy of this order to Retired Hon''ble Mr. Justice R.K. Merathia. Both the applications are disposed of in view of the aforesaid directions and observations.