

(2018) 06 CAL CK 0025
In the Calcutta High Court
Case No : AP 316 of 2018

Punj Lloyd Ltd.

APPELLANT

Vs

West Bengal Medical Services Corporation Ltd.

RESPONDENT

Date of Decision : 07-06-2018

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 12, 13, 13(4), (5), 14

Citation : (2018) 06 CAL CK 0025

Hon'ble Judges : ASHIS KUMAR CHAKRABORTY, J

Bench : Single Bench

Advocate : Sarvapriya Mukherjee, Sonia Sharma, Soumabho Ghose, Aritra Basu, Dr. Chapales Bandyopadhyay, Anandamoyee Dutta

Final Decision : Disposed Of

Judgement

The Court : This is an application under Section 14 of the Arbitration & Conciliation Act, 1996 (in short, "the Act") at the instance of the claimant in an arbitral proceeding praying for, termination of the mandate of the sole arbitrator.

It appears that the grievance of the petitioner in this has already been addressed by an order dated May 10, 2018 passed by a learned Single Judge of

this Court in this application. I say so, because the learned Single Judge requested the Arbitrator to conduct the arbitral proceeding by complying the

directions passed by this Court in an earlier order dated December 18, 2017 filed by the petitioner under Section 14 of the Act, as well as those

contained in the said order dated May 10, 2018. At this juncture, it is to be noted that by the earlier order dated December 18, 2017 this Court directed

the arbitrator to make and publish his award within the month of August, 2018.

However, today the matter appeared before this Court as directed by the said order dated May 10, 2018. Today a supplementary affidavit has been

filed by the petitioner. By referring to the allegations made in the supplementary affidavit, Mr. Mukherjee, learned counsel appearing in support of the

application submitted that after passing of the said order dated May 10, 2018 the arbitrator has committed further acts which have given rise, in the

mind of the petitioner, to justifiably doubt about his independence and impartiality to conduct the arbitral proceeding. Such submission made by the

petitioner was disputed by Mr. Bandyapadhyay, learned counsel appearing for the respondent.

Having considered the facts of the case, I find that in view of the directions passed in the said order dated May 10, 2018 as already mentioned above,

nothing further remains to be decided in this application. The allegations made by the petitioner in its supplementary affidavit filed today cannot be

considered by this Court to consider the application afresh.

If, any conduct of the arbitrator subsequent to the passing of the order dated May 10, 2018 gives rise to any apprehension in the mind of the petitioner

to doubt the independence or impartiality of the arbitrator, it may move an application under Sections 12 and 13 of the Act, which will be decided by

the arbitrator. It is, however, clarified any decision of the arbitrator in the application under Sections 12 and 13 of the Act rejecting the challenge of the

petitioner will follow the provisions contained in sub-sections (4) and (5) of Section 13 of the Act.

It is, however, clarified that since the respondent was not called upon to file any affidavit-in-opposition to this application, the allegations made in

application or in the supplementary affidavit filed by the petitioner shall be deemed not to have been admitted by the respondent. With the above

directions the application, A.P. No. 316 of 2018 stands disposed of, without any order as to costs.