
(2000) 08 AHC CK 0042

In the Allahabad High Court

Case No : Special Appeal No. 310 of 1999 with S.A. No's. 307, 308 and 345 of 1999 and Miscellaneous Arbitration Case No. 91 of 1998

Union of India

APPELLANT

Vs

M/s. M.S. Sachdeva

RESPONDENT

Date of Decision : 28-08-2000

Acts Referred:

Allahabad High Court Rules, 1952 — Rule 5
Arbitration and Conciliation Act, 1996 — Section 11(6)

Citation : (2000) 4 AWC 2743

Hon'ble Judges : Shyamal Kumar Sen, C.J.; S.H.A. Raza, J

Bench : Division Bench

Judgement

Shyamal Kumar Sen, C.J.—We are of the view that the order appointing arbitrator u/s 11(6) of the Arbitration and Conciliation Act, 1996 is not a judicial function. It is an administrative one. Being designated by the Hon'ble Chief Justice, the Hon'ble Judge passed an order appointing an Arbitrator. We are of the view that no Special Appeal lies against the appointment of an Arbitrator. This position has now been settled by the Hon'ble Supreme Court in Ador Samia Put. Ltd. v. Peekay Holdings Ltd. and others 1999 (4) CCC 67 SC. wherein the Hon'ble Supreme Court held that "It is now well settled that petition under Article 136 can be for challenging a judgment, decree, determination, sentence or order in any cause or matter passed or made by any Court or tribunal in the territory of India. As the learned Chief Justice or his designate u/s 11(6) of the Act acts in administrative capacity as held by this Court in the aforesaid decision, it is obvious that this order is not passed by any Court exercising any judicial function nor it is a tribunal having trappings of a judicial authority. Orders passed by the learned Chief Justice u/s 11(6) of the Arbitration and Conciliation Act being of an administrative nature cannot be subjected to any challenge directly under Article 136 of the Constitution of India."

2. In view of dictum of Hon'ble Supreme Court, the Special Appeals fail on merits and are accordingly dismissed.

3. Interim orders, if any, stand vacated.