
(2010) 01 SC CK 0006

In the Supreme Court Of India

Case No : Civil Appeal No's. 3746 and 3747 of 2005

Va Tech Escher Wyass Flovel Ltd.

APPELLANT

Vs

M.P.S.E. Board and Another

RESPONDENT

Date of Decision : 14-01-2010

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 9

Madhya Pradesh Madhyastham Adhikaran Adhiniyam, 1983 — Section 7(1)

Citation : (2011) 13 SCC 261

Hon'ble Judges : R. M. Lodha, J; Markandey Katju, J

Bench : Division Bench

Advocate : H.L. Tiku, Thakur Sumit and Ashok K. Mahajan, for the Appellant;
Sakesh Kumar and Rohit Singh for Dharmendra Kumar Sinha, for the Respondent

Final Decision : Partly Allowed

Judgement

1. The appeals are allowed in terms of the signed order. No costs.

Civil Appeal No. 3746 of 2005

2. Heard learned Counsel for the parties.

3. This Appeal has been filed against the impugned judgment of the High Court of Madhya Pradesh dated 05th March, 2003.

4. It appears that the appellant was awarded a work contract by the respondents. There was some dispute between the parties and there is an arbitration clause in the agreement.

5. Appellant filed an application u/s 9 of the Arbitration & Conciliation Act, 1996 (for short 'the 1996 Act') which was rejected by the learned Additional District Judge and that order has been upheld by the High Court. Hence, this appeal.

6. Section 7(1) of the Madhya Pradesh Madhyastham Adhikaran Adhiniyam, 1983 (for short 'the 1983 Act') provides as follows:

7. Reference to Tribunal - (1) Either party to a works contract shall irrespective of the fact whether the agreement contains an arbitration clause or not, refer in writing the dispute to the Tribunal.

7. Subsequently, the Parliament enacted the 1996 Act. The 1996 Act only applies where there is an arbitration clause but it does not apply where there is none. The 1996 Act covers all kinds of disputes including the dispute relating to work contracts.

8. In our opinion, the 1983 Act and the 1996 Act can be harmonised by holding that the 1983 Act only applies where there is no arbitration clause but it stands impliedly repealed by the 1996 Act where there is an arbitration clause. We hold accordingly.

9. Hence, the impugned judgment cannot be sustained and we hold that the application u/s 9 of the 1996 Act was maintainable.

10. The Appeal is allowed accordingly. No costs.

Civil Appeal No. 3747 of 2005

11. In view of our order passed today in Civil Appeal No. 3746 of 2005, this appeal is also allowed on the same terms. No costs.