

Dsp Construction Vs. Union of India

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Court : Kolkata

Decided On : Jan-06-2014

Judge : Sanjib Banerjee

Appellant : Dsp Construction

Respondent : Union of India

Judgement :

ORDER

SHEET AP 1065 OF 2013 IN THE HIGH COURT AT CALCUTTA Ordinary Original Civil Jurisdiction ORIGINAL SIDE DSP CONSTRUCTION Versus UNION OF INDIA BEFORE: The Hon'ble JUSTICE SANJIB BANERJEE Date : 6th January, 2014.

Ms.K.Das, Adv.appeaRs.Ms.A.Banerjee, Adv.appeaRs.The Court : The petitioner has carried this request under section 11 of the Arbitration and Conciliation Act, 1996 on the perceived failure of the appointing authority to appoint an Arbitrator within a reasonable time of the petitioners request as contained in a letter dated August 6, 2010.

The Railways refer to a circular which provides for a pre-arbitration meeting to be held between a contractor and the Railway officials before the disputes are taken to arbitration.

the Railways, the petitioner not only participated in the concerned According to pre-arbitration meeting on September 14, 2010, but the petitioner also subsequently sought an adjournment of the next date of the pre-arbitration meeting by a letter of September 25, 2010.

The Railways say that the petitioner failed to deposit the documents that the petitioner had promised to produce at the pre-arbitration meeting, whereupon the Railways have not been able to take the matter forward.

The petitioner agrees that the parties be restored to the prearbitration meeting so that the disputes may be attempted to be sorted out before an arbitral reference is commenced.

Accordingly, A.P.No.1065 of 2013 is disposed of by requesting the Senior Divisional Engineer (Co-ordination) of Eastern Railway, to indicate the next set of dates for the pre-arbitration negotiations between the parties to be undertaken.

Only upon the failure of the parties to resolve their disputes being recorded in the minutes of any pre-arbitration meeting or being asserted by the petitioner in any letter to the Railways, will the appointing authority be obliged to take steps for the constitution of the arbitral tribunal in accordance with the arbitration clause.

There will be no order as to costs.

Urgent certified website copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SANJIB BANERJEE, J.) tk

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