

Union of India and Another Vs. M.S. Sachdeva

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Court : Allahabad

Decided On : Aug-28-2000

Reported in : 2000(4)AWC3082

Judge : Shyamal Kumar Sen, C.J. and; S.H.A. Raza, J.

Acts : Allahabad High Court Rules, 1952 - Rule 10; Arbitration and Reconciliation Act, 1996 - Sections 11 (6); [Constitution of India](#) - Article 136

Appeal No. : Special Appeal No. 310 of 1999 with Special Appeal Nos. 307 and 308 of 1999

Appellant : Union of India and Another

Respondent : M.S. Sachdeva

Advocate for Def. : C. S. C.

Advocate for Pet/Ap. : K.K. Nigam, Adv.

Judgement :

Shyamal Kumar Sen, C.J.

1. We are of the view that the order appointing arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996, is not a judicial function. It is an administrative one. Being designated by the Hon. the 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. Supreme Court in Ador Samia Pvt. Ltd. v. Peekay Holdings Ltd. and others, 1999 14) CCC 67 (SC), wherein the Hon. 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 under Section 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 under Section 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. Supreme Court, the special appeals fail on merits and are accordingly dismissed.

3. Interim orders, if any stands vacated.

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