

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**

**Shukla Construction Vs. General Manager, East Central Railway and ors.**

**Shukla Construction Vs. General Manager, East Central Railway and ors.**

**SooperKanoon Citation : [sooperkanoon.com/517838](http://sooperkanoon.com/517838)**

**Court : Jharkhand**

**Decided On : Jul-27-2005**

**Reported in : AIR2006Jhar46; 2005(3)BLJR1845; [2005(4)JCR30(Jhr)]**

**Judge : M.Y. Eqbal, J.**

**Acts : [Arbitration and Conciliation Act, 1996](#) - Sections 11(6)**

**Appeal No. : A.A. No. 20 of 2004**

**Appellant : Shukla Construction**

**Respondent : General Manager, East Central Railway and ors.**

**Advocate for Def. : Rajiv Ranjan, Adv.**

**Advocate for Pet/Ap. : S. Choudhary, Adv.**

**Judgement :**

**ORDER**

**M.Y. Eqbal, J.**

1. Heard the counsel for the parties on the application filed by the petitioner under Section 11(6) of the Arbitration and Conciliation Act along with the counter-affidavit filed by the respondents.

2. The matter relates to a work order issued to the petitioner in 1993. When the bills submitted by the petitioner could not be passed, a dispute arose and time to time correspondences were exchanged between the parties. It appears that the parties settled their dispute at the pre-arbitration stage by referring the matter to two Arbitrators nominated by each of the parties and one Presiding Arbitrator, namely, the General Manager, East Central Railway, Kolkata. Accordingly the petitioner suggested the name of one Sri A.K. Rai, Sr. DEN/3/DHN/Eastern Railway and the respondent nominated one Sri M.K. Dubey, Sr. DAO/Eastern Railway/DHN to be appointed as Arbitrators, Sri, R.P. Kausar, Sr. DEN/2/Eastern Railway/DHN was appointed as Presiding Arbitrator.

3. The contention of the petitioner is that Sri R.P. Kausar, the Presiding Arbitrator entered the measurements in the Measurement Book and so he is not an independent Presiding Arbitrator. However, learned counsel for the parties have jointly agreed to nominate one independent person to be appointed as Presiding Arbitrator. I am also of the view that an independent person be appointed as Presiding Arbitrator.

4. In view of the fair submissions made by the parties, I appoint Hon'ble Sri S. Roy, a retired judge of the Patna High Court as Presiding Arbitrator. Let the entire records of the arbitration proceeding be sent to the Presiding Arbitrator appointed by this Court who, along with the two Arbitrators, shall proceed with the arbitration proceeding and give award within a period of four months from the date of first sitting held by them. This arbitration application is, accordingly, disposed of.

5. So far the cost of Rs. 5,000/- imposed by order dated 4.5.2005 is concerned, learned counsel for the respondent submits that the same may be reduced. The order dated 4.5.2005 is modified to the extent that the respondent shall deposit Rs. 3,000/- instead of Rs. 5,000/- as cost in the account of the Jharkhand High Court Legal Service Committee.