

Jacob N.P. Vs. Oriental Structural Engineers and anr.

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Court : Kerala

Decided On : Aug-20-2008

Reported in : 2008(3)KLJ404

Judge : Pius C. Kuriakose, J.

Acts : [Arbitration and Conciliation Act, 1996](#) - Sections 9, 11, 11(1) to 11(6) and 11(8)

Appeal No. : A.R. No. 32 of 2007

Appellant : Jacob N.P.

Respondent : Oriental Structural Engineers and anr.

Advocate for Def. : Thomas M. Jacob and; G. Rajagopal, Advs.

Advocate for Pet/Ap. : P. Vijayakumar, Adv.

Disposition : Petition allowed

Judgement :

ORDER

Pius C. Kuriakose, J.

1. The petitioner, a civil contractor who was awarded with Annexure 1 contract by the first respondent for supply of tippers and JCBs as per agreed rates at the

project sites between Angamaly and Thodupuzha of the Kerala State Transport Project Fact III falling under the original contract awarded by the Government in favour of the first respondent has filed this application under Section 11 of the Arbitration and Conciliation Act seeking appointment of a neutral and impartial arbitrator for resolving the dispute between him on the one hand and the respondents on the other. Annexure 1 is the contract executed between the petitioner and the second respondent on behalf of the first respondent. Clause 9.03 of Annexure 1 is highlighted and the same is extracted below:

Settlement of Disputes: Any dispute arising out of this sub contract work shall be settled amicably through the CPM of OSEPL within the terms of this work order. In case of failure to settle amicably? the dispute shall be finally resolved in accordance with the Arbitration & Conciliation Act, 1996 by sole Arbitrator to be nominated (including nomination of replacement Arbitrator, if necessitated by vacancy of the post caused by any reason whatsoever) by the Managing Director of OSEPL, New Delhi. The venue shall be New Delhi. This sub contract is governed as per the Laws of India and the jurisdiction of only New Delhi Courts shall apply.

OSEPL referred to in the afore-quoted arbitration Clause is the first respondent M/s. Oriental Structural Engineers Pvt. Limited company represented by Managing Director. The petitioner claims to have supplied machinery to the first respondent at their work sites and he had to employ over time in view of the larger quantities of work. A comprehensive final bill was submitted by him after satisfactory performance of his contractual obligations. But the bill amount was refused to be disbursed by the second respondent in full, and huge amounts towards diesel bills remained unpaid. Therefore the petitioner issued Annexure 2 comprehensive demand notice dated 16-10-2006 claiming a sum of Rs. 2,11,660.72/- on various-accounts. To Annexure 2 the petitioner was informed by the second respondent under Annexure 3 that the petitioner is entitled only for a refund of retention money of Rs. 49,872/- and that no further amounts are due. On receiving Annexure 3 the petitioner sent a lawyer notice to which there was no favourable response and accordingly on 19-12-2006 the petitioner issued Annexure 3 the petitioner sent a lawyer notice to which there was no favourable response and accordingly on 19-

12-2006 the petitioner issued Annexure 4 notice to the first respondent invoking the arbitration clause. It was requested in Annexure 4 that an independent neutral and impartial arbitrator be appointed for resolving the dispute. The respondent did not appoint arbitrator in response to Annexure 4 even after the lapse of seven months of receipt of Annexure 4. Apprehending that if the respondents are enabled to leave the work sites in Kerala after execution of pending works in the state, the petitioner may not be able to get effective and timely reliefs, petitioner filed Arbitration O.P. No. 83/2007 before the District Court, Ernakulam, under Section 9 of the Arbitration and Conciliation Act seeking interim measures to protect the petitioner's interest by attachment of the amounts due to the first respondent under the bank account of the respondents to the extent of the petitioner's claim. According to the petitioner there is a bonafide dispute between the parties regarding the quantum of the amounts due to the petitioner. The respondent has not even enquired into the claim of the petitioner on the basis of the records which was submitted. On the above averments, the petitioner has filed the arbitration request for the reliefs already indicated.

2. A detailed counter affidavit has been filed by the respondents. It is claimed therein that all the claims of the petitioner were fully and finally settled after finalisation of the bills of the petitioner. Annexure R1 discharge receipt issued by the petitioner to the first respondent is produced and it is contended that the present proceedings and claims are raised only as an after thought to somehow coerce and compel the respondents to make some concessions and additional payments. Counter affidavit quotes the arbitration Clause 9.03 of Annexure 1 and submits that in the event of failure to settle the disputes amicably through the Chief Project Manager of the first respondent, the dispute shall be resolved by a sole arbitrator to be appointed by the managing director of the first respondent and that the venue of the arbitration shall be in New Delhi and further that the jurisdiction will be confined to courts in New Delhi alone. It is contended in the counter affidavit that the petitioner has not sought for or made any demand for appointment of any arbitrator. The allegation that the petitioner demanded for appointment of arbitrator as per Annexure 4 notice dated 19-12-2006 described in the counter affidavit as an incorrect one and the said allegation is denied. It is contended that Annexure 4 is seen addressed to the second respondent and not

to the first respondent or its managing director. It is also contended that the second respondent also has not received Annexure 4 notice or any other notice from the petitioner seeking appointment of an arbitrator. It is alleged that Annexure 4 is concocted for the purpose of this arbitration request and has not been issued by the petitioner at all. It is pointed out that it is apparent that Annexure 4 has not been sent by registered post or by any other accepted norms or principles for issuance of notices. It is accordingly contended that the present arbitration request is pre-mature and is liable to be dismissed on the reason that the arbitration Clause is not yet invoked by the petitioner. It is then submitted that though the petitioner has not made any demand or preferred any notice seeking appointment or arbitrator, on advice, the managing director of the first respondent has appointed an arbitrator invoking his powers of appointment of arbitrator as per arbitration Clause 9.03 treating the present arbitration request as a demand for preferring the arbitration. Accordingly, Annexure R2 communication dated 21-01-2008 appointing Sri. Prem Nath, Executive Director (Retd), Airport Authority of India, J-1195, Ansal's Palam Vihar, Gurgaon as the sole arbitrator has been issued for making and publishing his award in respect of all the disputes raised by the petitioner under the work order. It is stated that Annexure 2 has been issued to the petitioner and the arbitrator. It is requested that since Arbitration proceedings has been initiated, Annexure R2 may be accepted by this court and on that basis arbitration request may be closed. As regards Arbitration O.P. No. 83/07 filed by the petitioner under Section 9 seeking to attach the bank account of the respondent, it is submitted that as of now, the said application stands dismissed for default. Lastly it is contended that this court does not have jurisdiction to entertain the arbitration request. The parties have elected and agreed for arbitration at New Delhi and jurisdiction of courts at New Delhi alone.

3. The petitioner has filed a reply affidavit reiterating his contentions and denying the contentions raised in the counter affidavit. It is submitted that the payments received as per Annexure R1 discharge receipt was never meant to be the final settlement. The said receipt was issued at the instance of the accounts officer at the project site of the respondents who assured the petitioner that the petitioner's claim for further amounts due to him under the contract would not be prejudiced by Ext.R2 receipt. More over, at that time, the respondent being the principal authority

in a dominant position, the petitioner being in a distressful condition in dire need of money became constrained to issue Annexure 2. It is pointed out that even under Ext.R3 letter of the respondent sent in response to Ext.R2 letter of the respondent there is no mention of full settlement between the parties. Petitioner submits that during October 2006 over and above Annexure 2% the petitioner had sent an earlier lawyer notice demanding further payments of Rs. 261,600/- Though the said notice was received by the second respondent no reply even was sent and much less no claim of complete discharge was received. Annexure 5 lawyer notice, Annexure 5(a) registration receipt and Annexure 5(b) acknowledgment card are relied on in this regard.

4. I The reply affidavit points out that admittedly the respondents have not nominated an arbitrator at any time prior to filing of this request despite Annexure 2 demand notice, Annexure 4 letter and Annexure 5 lawyer notice. Even in the objection which the respondent has filed to Arbitration O.P. No. 83/07 filed before the District Court, the respondent never made any offer to appoint arbitrator. Annexure 6 is the copy of the objection filed by the respondent before the District Court. The appointment of arbitrator sought to be made under Annexure R2 dated 21-01-2008 is thus more than six months after Annexure 6 objections were filed before the District Court. Thus it is obvious that the appointment of the arbitrator under Annexure R2 is with the view of avoiding appointment of impartial third party arbitrator at the instance of this court. The present request filed under Section 11(5) when the petitioner's request for arbitration has not been acceded to is perfectly maintainable. On receiving Annexure R2 the petitioner had informed the respondents of the impropriety of appointing an arbitrator when this court is in seizin of the matter. Annexure 7 is the copy of the letter in that regard. The reply affidavit answers the contention that Annexure 4 request was given not to the first respondent but to the second respondent by contending that on the terms of Annexure 1 agreement in which the second respondent represents the first respondent any notice to the second respondent shall be sufficient notice to the first respondent also. It is then submitted that the appointment of an arbitrator in Kerala and the conduct of arbitration proceedings in Kerala will not prejudice either of the parties, but appointment of a person handpicked by the respondents who have all along been reluctant to consider the claims of the petitioner cannot inspire

any confidence of impartiality and fairness.

5. Strenuous and extensive submissions were addressed before me by Sri. P. Vijayakumar, Counsel for the petitioner and Sri. Thomas M. Jacob, Counsel for the respondents. Sri. Vijayakumar would draw my attention to Sub-sections 1 to 6 of Section 11 of the Arbitration and Conciliation Act 1996. As directed he placed before me a copy of the arbitration O.P. No. 83/07 filed before the District Court, Ernakulam together with copies of the various annexures produced along with the same. Learned Counsel would refer to any rely on the judgment of the three Judges Bench of Supreme Court in Punj Lloyd Ltd. v. Petronet MHB Ltd. 2006(2) Supreme Court Cases 638. Sri Vijayakumar also relied on the judgment of the Supreme Court in Shin Satellite Public Co. Ltd. v. Jain Studios Ltd. 2006(2) Supreme Court Cases 628. Strong reliance was placed by Sri. Vijayakumar on the judgment of the Supreme Court in Datar Switchgears Ltd. v. Tata Finance Ltd. and Anr. : (2000)8SCC151 . Learned Counsel relied on the judgment of the seven Judges Bench of the Supreme Court in SBP & Co. v. Patel Engineering Ltd. and Anr. 2005(8) Supreme Court Cases 618 to drive home that the power exercised by the Chief Justice or the designated Judge under Section 11(6) of the Arbitration Act is a judicial power to be exercised on considerations normally akin to exercise of such power and that the Chief Justice or the designated Judge will have the right to decide on the existence of the conditions for the exercise of his power and once those conditions are seen satisfied, the power of appointment shall be only that of the Chief Justice or the designated Judge.

6. Per contra, Sri. Thomas would place very strong reliance on the judgment of this court in Bel House Associates (P) Ltd. v. General Manager, Southern Railway 2001(1) KLT 579. According to him, in the instant case it is Sub-section 6 of Section 11 of the Arbitration Act which is applicable and even if it is assumed that the arbitration Clause has been invoked by the petitioner, then also what this court can do is not to appoint independent arbitrator, but only to direct implementation of the procedure contemplated in the agreement for appointment of arbitrator. Still stronger reliance was placed by Sri. Thomas on the judgment of a Division Bench of this court in National Thermal Power Corporation (P) Ltd. : AIR2005 Ker115 wherein the Division Bench had approved the view taken by the learned Single

Judge in Bel House Associates (P) Ltd's case. Sri. Thomas would rely also on the judgment of the Supreme Court in Municipal Corporation, Jabalpur and Ors. v. Rajesh Construction Co. JT 2007(5) SC 450 and the judgment of the Supreme Court in Ace Pipeline Contracts (P) Ltd. v. Bharat Petroleum Corporation Ltd. : AIR 2007 SC1764 .

In reply Sri. Vijayakumar would endeavour to distinguish the judgment of the Division Bench in NTPC's case on the peculiar facts which obtained in that case. It was submitted that in that case the arbitration request was filed on 21-01-2004 and notice regarding the arbitration request was received by the respondent only on 20-03-2004 while actual appointment of arbitrator had been made in that case on 20-02-2004 itself. He would refer to paragraphs 25 and 26 of that judgment and argue that the learned Judges who decided Municipal Corporation, Jabalpur and Ors. v. Rajesh Construction Co. JT 2007(5) SC 450 have not expressed any disagreement or dissent regarding the judgment of the three Judges bench in Punj Lloyd Ltd. v. Petronet MHB Ltd. 2006(2) Supreme Court Cases 638.

7. I have considered the rival submissions addressed at the Bar in the light of the pleadings raised by the parties and the documents placed on record and the statutory provisions as well as the judicial precedents cited. It is necessary first to decide the question whether the applicant had invoked Clause 9.03 of Annexure 1 agreement which is an arbitration clause. It is not disputed that disputes arose between the parties as envisaged by Clause 9.03 and that those disputes could not be settled amicably by the second respondent. Circumstances did exist in this case for the first respondent or the managing director of the first respondent to appoint an arbitrator in terms of Clause 9.03 if the petitioner had made a request for invocation of such power of appointment by the managing director. According to the petitioner he had sent Annexure 4 notice dated 19-12-2006 to the second respondent, on receiving Annexure 3 letter from the second respondent in response to Annexure 2 claim notice and Annexure 5 lawyer notice. The stand of the second respondent is that Annexure 4 is a concocted document and that such a notice invoking the arbitration Clause was never sent by the petitioner nor received by the addressee-the second respondent.

8. It will be noticed immediately that the petitioner has not produced any document which will show that he has sent Annexure 4 to the second respondent as he claims. The case of the petitioner is that the letter was sent by ordinary post. It would have been difficult for me to accept the above claim of the petitioner. But there are circumstances in this case which makes the applicant's version regarding issuance of Annexure 4 more probable than that of the respondent. The applicant had admittedly filed Arbitration O.P. No. 83/07 before the District Court. The above O.P. was filed on 1-2-2007 in contemplation of resolution of the dispute by arbitration and for interim measures for securing his interests in the prospective award in the arbitration. It is specifically claimed in paragraph No. 9 of the said O.P. that the petitioner demanded the respondent to nominate an independent neutral and impartial arbitrator for resolving the dispute in a fair manner and Annexure 4 copy of the notice invoking the arbitration Clause was produced as a document along with the O.P. Annexure 6 is the statement of objections filed by the respondents in the arbitration O.P. before the District Court. It is in paragraph 5 of Annexure 6 that the respondents endeavour to answer the averment in paragraph 9 of the arbitration O.P. I do not find any specific denial of the asseveration of the petitioner that he had issued Annexure 4 notice to the respondents as a prelude for initiating the arbitration proceedings. As stated, Annexure 4 had been produced as Annexure 4 in that arbitration O.P. Also. Through the first sentence in paragraph 5 of Annexure 6 the respondent has stated that 'the allegation that the petitioner has demanded nomination of an arbitrator is not correct and is denied'. But I cannot read that sentence in isolation. Through the next 2nd and 3rd sentences the petitioner seems to expatiate the contention raised through the first sentence. What is stated by those sentences is that no steps required for initiation of arbitration proceedings have been taken by the petitioner and that the petitioner has not made any clear demand or claim as alleged in the above case and that the claims made even in the petition is not clear and is ambiguous.

9. Having regard to the law relating to pleadings, I am inclined to accept the contention of the petitioner that the claim of the petitioner in the arbitration O.P. before the District Court that Annexure 4 notice had been issued was not specifically denied. In fact a reading of Annexure R6 will show that the attempt of

the respondent was to non-suit the petitioner in that arbitration O.P. assuring the court of the solvency of the respondents to honour any award which may be passed by the Arbitrator in the prospective arbitration proceedings. Annexure 4 notice being a notice produced along with the original petition formed part of the pleadings in the original petition itself and if the respondent has a contention either that Annexure 4 was a concocted notice or that he has never received Annexure 4, such a contention was expected to be raised specifically through the statement of objections. Significantly the applicant was trying to maintain the O.P. itself under Section 9 of the Arbitration Act on the basis of his allegation that pending finalisation of arbitration proceedings the respondent was trying to defeat his interest by exhausting his bank account/disposing of his assets. The circumstance that the respondent did not specifically deny Annexure 4 is of considerable consequence. According to me, the probabilities are that the applicant himself had sent Annexure 4 by ordinary post after getting the same prepared in his name by his counsel.

10. Now the question which survives is whether appointment of Arbitrator by the respondent after the institution of the present arbitration request by the applicant and also after the respondent had noticed notice of this arbitration request will take away the jurisdiction of the designated Judge to appoint an independent Arbitrator. It would appear that the argument of the respondent that the present application is under Section 11(6) and therefore even if the application is maintainable there is power for the Chief Justice or the designated Judge only to implement the agreed appointment procedure and thereby ensure that an Arbitrator is appointed as agreed to between the parties has the support of the judgment in *Bel House Associates (P) Ltd. v. General Manager, Southern Railway* 2001(1) KLT 579 and the judgment of the Division Bench in *N.T.P.C. v. Raghul Constructions (P) Ltd.* : AIR2005 Ker115 . It has certainly been held by the Division Bench in NTPC's case approving the view of R. Rajendra Babu, J. in *Bel House Associates (P) Ltd.*'s case that when application is made to the Chief Justice under Section 11(6) the endeavour is made to the Chief Justice under Section 11(6) the endeavour of the Chief Justice should be to secure an appointment as per the agreed procedure and not to bypass or annihilate it. But it should be noticed that the facts which obtained in NTPC's case were different. In

that case the respondent who was appointing authority as per agreed procedure had received notice of the arbitration request only 20-3-2004 and actual appointment of Arbitrator in tune with the agreed procedure had been made on 20-2-2004 itself. It would also appear that the Supreme Court has held in Municipal Corporation, Jabalpur and Ors. v. Rajesh Construction Co. JT 2007(5) SC 450 that when the arbitration Clause specifically provides for a manner in which appointment of the Arbitrator is to be made the court's endeavour shall be to ensure that Arbitrator is appointed in a manner which is inconsistent with the agreement between the parties. It is also seen that in Ace Pipeline Contractors (P) Ltd. v. Bharat Petroleum Corporation Ltd. : AIR 2007 SC1764 the apex court held that the court should normally adhere to the terms of the arbitration clause.

11. I am however of the view that there are binding precedents and special circumstances attending on this case justifying appointment of an independent Arbitrator. The claim of the applicant is below Rs. 3 lakhs and the submission of the learned Counsel for the applicant's present financial position is such that it will be very difficult for him to participate in the arbitration proceedings to be conducted by the appointment Arbitrator at New Delhi has come appeal. Datar Switchgears Ltd. v. Tata Finance Ltd. : (2000)8SCC151 was a case wherein power of the Chief Justice of the designated Judge under Section 11(6) was considered. That decision also takes the view that due weight should be given to the agreement between the parties regarding the appointment procedure and that just because the appointing authority has not appointed the Arbitrator within 30 days of getting demand for appointment of Arbitrator the authority does not forfeit its right to appoint. But that decision also decides that once the Chief Justice is moved by the party for appointment of Arbitrator, then power of the appointing authority to make the appointment ceases to exist. Datar Switchgears's case was decided by a Bench of two Judges and it is seen that a Bench of three Judges of the Supreme Court has affirmed the judgment in Datar Switchgears' case by judgment in Punj Lloyd Ltd. v. Petronet MHB Ltd. (2006) 2 SCC 638. In Punj Lloyd's case the Supreme Court following Datar Switchgears's case set aside the decision of the designated Judge dismissing the application for appointment of an independent Arbitrator stating the reason that the appointing authority had not appointed the Arbitrator before the applicant had approached the Chief Justice with his

application under Section 11(6) for appointment of an independent Arbitrator. The above view of the Bench of three Judges is seen shared by the Supreme Court in a subsequent decision in *Shin Satellite Public Co. Ltd. v. Jain Studios Ltd.* : AIR 2006 SC963 .

12. The judgment in *Municipal Corporation, Jabalpur v. Rajesh Construction Co.* JT (2007) 5 SC 450 was delivered by a two Judge Bench of the Supreme Court more recently and was relied on by the learned Counsel for the respondent. Their Lordships in that judgment have considered the judgment in *Punj Lloyds's case* and *Datar Switchgears's case*. After holding that it shall always be the duty of the court to construe the arbitration agreement between the parties in a manner so as to uphold the same it was held in paragraphs 25 and 26 as follows:

Before parting with this judgment, we will be failing in our duty if we do not consider and deal with the decisions cited by Mr. Sharma appearing on behalf of the respondent. First decision relied on by him was *Datar Switchgears Ltd. case* (supra). It is difficult to understand how the said decision would be of assistance to Mr. Sharma. In this decision, this Court was dealing with a case falling under Section 11(6) of the Act where no time limit is prescribed, whereas time limit of 30 days is prescribed under Section 11 (4) and (5) of the Act. In that context, it was held by this Court that if one party makes a demand for appointment of an arbitrator to the opposite party and the latter does not make an appointment within 30 days of demand, the right of appointment of arbitrator does not get automatically forfeited after expiry of 30 days. This Court held that under Section 11(6), if the opposite party has not made an appointment within 30 days of demand, the right to make appointment is not forfeited but still continues. However, the right of the opposite party ceases when an application under Section 11 seeking appointment of an arbitrator is filed. This is not the factual situation in the present case, nor are we concerned with this aspect in the present case.

So far as the case of *Punj Llyods Ltd* (supra) is concerned, it is true that this decision of this Court was rendered by a bench of three Judges which affirmed the decision in the case of *Datar Switchgears Ltd.* (supra). Since we are not concerned in the facts and circumstances of the present case with the question

decided by this Court in the aforesaid two decisions, we are unable to rely on those decisions.

According to me, what is significant in Municipal Corporation's case is that their Lordship have not expressed any dissent or disagreement with the principle laid down by the three Judge Bench in Punj Lloyd's case that even in an application under Section 11(6) appointment in accordance with the appointment procedure is expected to be made by the appearing authority before the arbitration request is filed before the Chief Justice. Judgment in Datar Switchgear's case was certainly cited before the Division Bench in NTPC's case. Their Lordships held at paragraph 9 of the judgment that the decision in Datar Switchgear's case is no applicable to the facts of NTPC's case in the nature of the arbitration Clause in that case. The arbitration Clause in that case is extracted in paragraph 2 of the judgment and the same is distinct in character and content from the arbitration Clause in the case on hand. Their Lordships have highlighted certain passages in the judgment in Datar Switchgear's case underscoring the importance of the procedure agreed upon between the parties in the matter of appointment of Arbitrator and accordingly held that due importance to the procedure agreed upon between the parties has to be given and that normally parties are bound by the agreed procedure. But it should be noticed that the Supreme Court had also held in Datar Switchgear's case that the appointing authority will forfeit its appointment right if the right is not exercised at a point of time prior to the opposite party moving the court under Section 11(6). The facts in Datar Switchgear's case were that the appointment had been made after statutory period of 30 days but prior to the filing of the arbitration request. As for the facts in NTPC's case the appointment had been made at least one month prior to the appointing authority getting notice regarding institution of the arbitration request by the opposite party. In view of the specific affirmation given to Datar Switchgear's case by the three Judge Bench of the Supreme Court in Punj Lloyd's case which was decided four months after the judgment of the Division Bench in NTPC's case, it is not possible to accept the argument that the appointing authority has not forfeited its powers at all. A perusal of the agreed appointment procedure incorporated under Clause 9.03 shows that no special qualifications have been prescribed for the Arbitrator. Therefore it is not possible to argue that by appointing a retired Judicial Officer with experience in the adjudicatory process, any prejudice

will be caused to either of the parties. As already noticed having due regard to the smallness of the stakes involved I feel that it will not be just to drive the applicant said to be in dire financial straits over to Delhi for settlement of the dispute. In this context I will also notice that the Constitution Bench of the Supreme Court in *SBP & Co. v. Patel Engineering Ltd.* (2005) 8 SCC 618 in the majority judgment has summarised their conclusions regarding the power exercised by the Chief Justice and the designated Judge under Section 11(6) and conclusion No. 4 is the following:

The Chief Justice or the designated Judge will have the right to decide the preliminary aspects as indicated in the earlier part of this judgment. These will be his own jurisdiction to entertain the request, the existence of a valid arbitration agreement, the existence or otherwise of a live claim, the existence of the condition for the exercise of his power and on the qualifications of the arbitrator or arbitrators. The Chief Justice or the designated Judge would be entitled to seek the opinion of an institution in the matter of nominating an arbitrator qualified in terms of Section 11(8) of the Act if the need arises but the order appointing p. the arbitrator could only be that of the Chief Justice or the designated Judge.

13. The result of the above discussions is that the objections are overruled and A.R. is allowed appointing Sri. P.S. Divakaran, Advocate, retired District Judge and former Registrar, High Court is appointed as Arbitrator for settling all the subsisting disputes between the applicant and the respondent as detailed in the arbitration request and in Annexure-I claim. The Arbitrator will invite pleadings and if counter claims are filed by the respondent he will adjudicate on the counter claims also. Arbitrator will enter on reference and make an publish his award at the earliest.