

Kawaljeet Tewari JV Vs State Of Uttarakhand And Others

Court: Uttarakhand High Court

Date of Decision: Jan. 14, 2022

Acts Referred: Arbitration And Conciliation Act, 1996 " Section 11(6), 11(8)

Hon'ble Judges: S. K. Mishra, J

Bench: Single Bench

Advocate: Harshit Sanwal, B.S. Parihar, Gurbani Singh

Final Decision: Disposed Of

Judgement

S.K. Mishra, J

Upon hearing the learned counsels, the Court made the following:

1. The matter is taken up virtually.

2. Heard Harshit Sanwal, learned counsel for the petitioner, Mr. B.S.Parihar, learned Standing Counsel for the State and Mr. Gurbani Singh, learned

counsel holding brief of Mr. J. C. Belwal, learned counsel for the private respondent.

3. In this application, filed under sub-section (6) of Section 11 of the Arbitration and Conciliation Act, 1996 (for short the "Act"), the applicant

has prayed for appointment of one or more independent and impartial persons as Arbitrator (s) to constitute an Arbitral Tribunal.

4. Clause 11.2 of the Concession Agreement dated 28.01.2015 is the arbitration clause for resolving the disputes between the parties, which is not

disputed by the learned counsel for the respondents.

5. It is brought to the notice of this Court that the petitioner is agreed that Mr. Mohan Chandra Pandey, retired Chief Engineer, Irrigation Department

R/o C-20 Judge Farm, Haldwani may be appointed as Arbitrator on their part and Mr. G. C. Pande, who is also retired Chief Engineer, R/o 263, Tara

Lodge, Haldwani, may be appointed as Arbitrator on the part of State of Uttarakhand.

6. Now, both the learned counsels submit that the third Arbitrator may be appointed so that the Arbitral Tribunal may be constituted.

7. Since, the agreement provides for an Arbitral Tribunal of three members, we hereby direct that the Arbitration Tribunal shall consist of Shri

Mehboob Ali (retired Judge of the Allahabad High Court), at present residing at Dehradun, as the Presiding Arbitrator in the Tribunal to resolve

the dispute.

8. This application is disposed of accordingly.

9. Let the Arbitrator be intimated accordingly. The learned Arbitrator shall, in terms of Section 11 (8) of the 1996 Act, furnish his disclosure in writing

to this Court within 15 days from the date of receipt of a certified copy of this Order. He shall, thereafter, fix his remuneration, and charges towards

other expenses, in consultation with the parties to the dispute. He shall endeavour to complete the arbitral proceedings, and to pass an award with

utmost expedition, preferably within six months from the date on which he enters upon a reference.