

**(2018) 06 CAL CK 0025**

**Calcutta High Court**

**Case No:** AP 316 of 2018

Punj Lloyd Ltd.

APPELLANT

Vs

West Bengal Medical Services  
Corporation Ltd.

RESPONDENT

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**Date of Decision:** June 7, 2018

**Acts Referred:**

- Arbitration and Conciliation Act, 1996 - Section 12, 13, 13(4), (5), 14

**Hon'ble Judges:** ASHIS KUMAR CHAKRABORTY, J

**Bench:** Single Bench

**Advocate:** Sarvapriya Mukherjee, Sonia Sharma, Soumabho Ghose, Aritra Basu, Dr.  
Chapales Bandyopadhyay, Anandamoyee Dutta

**Final Decision:** Disposed Of

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### **Judgement**

The Court : This is an application under Section 14 of the Arbitration & Conciliation Act, 1996 (in short, "the Act") at the instance of the claimant in an

arbitral proceeding praying for, termination of the mandate of the sole arbitrator.

It appears that the grievance of the petitioner in this has already been addressed by an order dated May 10, 2018 passed by a learned Single Judge of

this Court in this application. I say so, because the learned Single Judge requested the Arbitrator to conduct the arbitral proceeding by complying the

directions passed by this Court in an earlier order dated December 18, 2017 filed by the petitioner under Section 14 of the Act, as well as those

contained in the said order dated May 10, 2018. At this juncture, it is to be noted that by the earlier order dated December 18, 2017 this Court directed

the arbitrator to make and publish his award within the month of August, 2018.

However, today the matter appeared before this Court as directed by the said order dated May 10, 2018. Today a supplementary affidavit has been filed by the petitioner. By referring to the allegations made in the supplementary affidavit, Mr. Mukherjee, learned counsel appearing in support of the application submitted that after passing of the said order dated May 10, 2018 the arbitrator has committed further acts which have given rise, in the mind of the petitioner, to justifiably doubt about his independence and impartiality to conduct the arbitral proceeding. Such submission made by the petitioner was disputed by Mr. Bandyapadhyay, learned counsel appearing for the respondent.

Having considered the facts of the case, I find that in view of the directions passed in the said order dated May 10, 2018 as already mentioned above, nothing further remains to be decided in this application. The allegations made by the petitioner in its supplementary affidavit filed today cannot be considered by this Court to consider the application afresh.

If, any conduct of the arbitrator subsequent to the passing of the order dated May 10, 2018 gives rise to any apprehension in the mind of the petitioner to doubt the independence or impartiality of the arbitrator, it may move an application under Sections 12 and 13 of the Act, which will be decided by the arbitrator. It is, however, clarified any decision of the arbitrator in the application under Sections 12 and 13 of the Act rejecting the challenge of the petitioner will follow the provisions contained in sub-sections (4) and (5) of Section 13 of the Act.

It is, however, clarified that since the respondent was not called upon to file any affidavit-in-opposition to this application, the allegations made in application or in the supplementary affidavit filed by the petitioner shall be deemed not to have been admitted by the respondent. With the above directions the application, A.P. No. 316 of 2018 stands disposed of, without any order as to costs.