

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/463/2026

SHRI DIPAK KUMAR
VS
EASTERN COALFIELDS LIMITED

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 15th July, 2026.

Appearance:

Mr. Debajyoti Basu, Sr. Adv.

Mr. Aditya Chakraborty, Adv.

Mr. Anirban Ghosh, Adv.

...for the petitioner

Mr. Amritam Mandal, Adv.

Mr. Keshab Chakraborty, Adv.

...for the respondent

The Court: The petitioner has preferred the present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeking appointment of a sole Arbitrator to adjudicate the disputes that have arisen between the parties under a contract agreement dated 12.11.2022.

The petitioner is the sole proprietor of Hindustan Construction, an MSME contractor while the respondent is the Eastern Coalfields Limited, a subsidiary of Coal India Limited. The respondent floated a Notice Inviting Tender dated 11.11.2021 for the work of "Hiring of HEMM for Extraction & Transportation of 4.11 L.Te of Coal, Removal & Transportation of 12.20 L.Cum of OB and Re-handling of 5.00 L.Cum OB from SSI (Ningha) OC Patch, Sripur Area, ECL". The petitioner was declared successful in the

tender process and a letter was issued on 27.05.2022 and Work Order No. GM/SA/AM(PC&D)/05/22/14 dated 19.10.2022 was issued in favour of the petitioner. Pursuant thereto, the parties had entered into a contract dated 12.11.2022 valued at Rs.15,85,85,822.31/-. The petitioner furnished a performance bank guarantee for a sum of Rs.15,85,859/-. The agreement contains an arbitration clause under Article 14 of the General Terms and Conditions.

Learned Senior Counsel for the petitioner submits that serious disputes arose during the execution of the contract. It is alleged that the respondent failed to hand over hindrance free and contiguous project land within time resulting in substantial delay in execution of the work. The petitioner further contends that there has been a persistent mismatch between the quantity of coal reflected in the challans issued at the SSI OC Patch Depot and the railway receipt generated at the Satgram Railway Siding resulting in an alleged shortfall of about 12849 metric tonnes of coal. He further contends that repeated requests for joint inspection and measurement were allegedly ignored by the respondent. The petitioner further alleges that the respondent unilaterally proposed to levy electricity charges upon the petitioner at the rate of Rs.112/- per unit whereas similarly situated contractors were charged Rs.11.71/- per unit and that the arbitrary deductions were made from the running account bills of the petitioner. It is further stated that the petitioner was compelled to consent to the sale of coal through e-auction by road to the extent of 50% of the production. Disputes have also arisen with regard to the penalties imposed upon the petitioner for the alleged shortfall in coal production despite the

respondent's own hindrances. Learned Senior Counsel for the petitioner submits that the respondent issued two show cause notices in May, 2025 followed by a notice granting an opportunity of personal hearing. Thereafter, without taking any final decision on the petitioner's representation, the respondent issued a termination notice dated 31.12.2025 giving retrospective effect of the termination from 18.07.2025 for alleging breach of contract and threatening debarment and other penal consequences. Learned Senior Counsel for the petitioner states that despite the respondent's own hindrances, the respondent attributed the breach to the petitioner for the alleged non-performance of the contract. He further states that the petitioner approached the Asansol Commercial Court under Section 9 of the Arbitration and Conciliation Act, 1996 by filing a Misc. Arbitration Case (Commercial) 03/2026 wherein he had obtained a favourable order staying the bank guarantee to be encashed.

Learned Counsel for the respondent does not dispute the execution of the agreement between the parties nor does he dispute the arbitration clause contained in the said agreement. He consents to the appointment of the Arbitrator in terms of the contract executed between the parties.

In view of the same, this Court appoints Hon'ble Justice I.P. Mukerji (Retired), as the learned sole Arbitrator to adjudicate the disputes between the parties.

The appointment of the learned sole Arbitrator shall be subject to compliance with Section 12(5) of the Arbitration and Conciliation Act, 1996.

The learned sole Arbitrator shall be entitled to fix the remuneration in accordance with the Fourth Schedule of the Act.

A copy of this order shall be communicated by the petitioner to the learned sole Arbitrator for necessary action.

It is clarified that all questions relating to the arbitrability of the disputes, the admissibility of the claims, limitation, jurisdiction, and all other issues are left open to be urged before the learned Sole Arbitrator, who shall decide the same in accordance with law.

With the aforesaid directions, the present petition stands disposed of.

(GAURANG KANTH, J.)

R.Bhar