

# International Engineers And Project ... vs Mahanagar Telephone Nigam Ltd on 6 September, 2022

**Author: Anup Jairam Bhambhani**

**Bench: Anup Jairam Bhambhani**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ CS(COMM) 27/2021  
INTERNATIONAL ENGINEERS AND PROJECT  
CONSULTANTS LIMITED

Through: Mr. Mahabir Singh, Senior  
with Mr. Himanshu Mahaja  
Ms. Garima Chaudhar  
Mr. Veerendra Kumar, Advoc

versus

MAHANAGAR TELEPHONE NIGAM LTD.

Through: Mr. Saket Sikri, Mr. Aja  
& Mr. Arun Sanwal, Advoc

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI  
ORDER

% 06.09.2022 By way of this application filed under sections 30 and 33 of the Arbitration Act 1940, the defendant seeks to file objections to arbitral award dated 23.12.2020 rendered by the learned sole arbitrator.

2. Notice on this application was issued on 16.04.2021; consequent whereupon the plaintiff has filed reply dated 16.07.2021.

3. The court has heard Mr. Mahabir Singh, learned senior counsel appearing for the plaintiff and Mr. Saket Sikri, learned counsel appearing for the defendant.

4. The essential controversy in the matter is, that according to the plaintiff, the objections to the arbitral award by way of the present application have been filed on 11.03.2021, though the original award and arbitral record were filed by the learned arbitrator only on 06.04.2021 (with a corrigendum to the award having been subsequently filed on 12.04.2021), whereby, according to learned senior counsel for the plaintiff, the objections so filed on 11.03.2021 i.e. before the original award was filed in court by the learned arbitrator on 06.04.2021, are pre-mature and therefore not maintainable.

5. In support of his submissions, Mr. Singh has cited the decision of the Hon'ble Supreme Court in Union of India and Ors. vs. Neelam Engineering and Construction Company<sup>1</sup>, in particular to paras

25 to 28 thereof, to argue that objections filed prior to the award being filed, are not treated as valid objections under sections 30 and 33 of the Arbitration Act, 1940.

6. On the other hand, Mr. Sikri submits that the only prayers made in the present suit are as follows:

"A) Issue notice to the Sole Arbitrator Shri A.K. Shrivastav, IAS at his address detailed in para 16 directing him to file the Award along with the entire record of the arbitration proceedings; and B) Issue notice to the Defendant/claimants M/s Mahanagar Telephone Nigam Ltd.;

C) Any other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the matter and in the interest of justice be also passed."

(emphasis supplied) whereupon the defendant received court notice dated 10.02.2021 on 12/15.02.2021, which notice recited as under:

(2010) 3 SCC 642 "WHEREAS in the above mentioned matter, Award dated 23.12.2020 has been passed by the Ld. Sole Arbitrator Mr. A.K. Srivastava, IAS (Retd.) and the Hon'ble Court has been pleased to direct you to file objections, if any, to the aforesaid award. You are, therefore, requested to file objections to the award, if any, in this Court, well before the next date of hearing i.e. 16.04.2021 and appear in person or through an advocate duly authorized on the said date before Ld. Joint Registrar (Judicial) of this Hon'ble Court at 11:00 a.m."

(emphasis supplied) and that, in compliance of the notice so received, the defendant filed its objections to the arbitral award by way of the present application.

7. Mr. Singh however contends that notice dated 10.02.2021 issued by the Registry of this court was itself not in conformity with section 14(2) of the Arbitration Act, 1940 and was also not in compliance with order dated 03.02.2021 made by the learned Joint Registrar, which had only directed issuance of notice to the defendant, recording as follows:

"Notice also be issued to defendant on filing of PF and RC for 16.04.2021."

8. Mr. Sikri controverts the aforesaid submission, urging that since notice dated 10.02.2021 received from the court specifically directed the defendant to file objections stating that " ... the Hon'ble Court has been pleased to direct you to file objections...well before the next date of hearing i.e. 16.04.2021...", in compliance of the period of limitation as contained in Article 119 (b) of the Schedule to the Limitation Act 1963, the defendant filed the present application on 11.03.2021 placing its objections on record. In fact, Mr. Sikri submits, that as per the Delhi High Court Rules, objections to an award under sections 30 and 33 of the Arbitration Act, 1940 are to be treated as an interim application, which is why the present application was registered as an interim application in this suit. In this behalf, attention of this court is also drawn to the observations made by a Co-ordinate Bench of this court in Hindustan Construction Co. Ltd. vs. National Hydro Electric Power

Corporation2.

9. Mr. Sikri submits that his principal contention is, that while in the suit filed by the plaintiff there is no prayer for making the award 'rule of court', the defendant on its part has complied with filing objections to the award pursuant to notice received from the court within 30 days, in compliance of Article 119 (b) of the Schedule to the Limitation Act.

10. Mr. Sikri also submits that, as is also borne-out from the record, after the arbitral award was filed in court on 06.04.2021, no further notice was received by the defendant calling upon it to file objections to the award.

11. For the record, as averred in para 20 of the plaint, notice of making of the award was received by the plaintiff from the learned sole arbitrator on 23.12.2020; whereupon the present suit came to be filed on 11.01.2021, i.e. within the period of limitation provided in Article 119(a) of the Schedule to the Limitation Act.

(2010) SCC OnLine Del 599

12. Without delving any further into the controversies and rival contentions however, it is noticed that admittedly, the limited prayer in the present suit was for issuance of notice to the learned sole arbitrator directing him to file the arbitral award alongwith entire arbitral record in this court, with the ancillary prayer for issuance of notice to the defendant; and clearly, there is no prayer in the present suit for making the award 'rule of court'; in view of the above, the prayer in this application seeking to place on record objections to the award, is, in that sense, also infructuous.

13. Accordingly, the present application is disposed of as infructuous. CS (COMM) 27/2021

14. In view of the above, Mr. Mahabir Singh, learned senior counsel appearing for the plaintiff fairly submits, that the prayers made in the suit having been satisfied, nothing further survives in the suit; and the suit itself may be disposed of as infructuous.

15. Accordingly, the suit is disposed of, as infructuous.

ANUP JAIRAM BHAMBHANI, J.

SEPTEMBER 6, 2022/uj