

Egis India Consulting Engineers ... vs Pawan Hans Limited on 20 July, 2021

Author: C .Hari Shankar

Bench: C .Hari Shankar

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ O.M.P.(I) (COMM.) 148/2021

EGIS INDIA CONSULTING

ENGINEERS PRIVATE LIMITED

..... Petitioner

Through Mr. Nakul Dewan,
Advocate with Mr. Ashish Virmani, Mr.
S.K. Virmani, Mr. Harsha Gollamudi,, Mr.
Rakesh Puri and Ms. Neelu Mohan,
Advocates

versus

PAWAN HANS LIMITED

..... Respondent

Through Mr. Puneet Taneja and Mr.
Manmohan Singh Narula, Advs.

+ ARB.P. 542/2021

EGIS INDIA CONSULTING

ENGINEERS PRIVATE LIMITED

..... Petitioner

Through Mr. Nakul Dewan,
Advocate with Mr. Ashish Virmani, Mr.
S.K. Virmani, Mr. Harsha Gollamudi,, Mr.
Rakesh Puri and Ms. Neelu Mohan,
Advocates

versus

PAWAN HANS LIMITED

..... Respondent

Through Mr. Puneet Taneja and Mr.
Manmohan Singh Narula, Advs.

CORAM:

HON'BLE MR. JUSTICE C .HARI SHANKAR

O R D E R (ORAL)

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20.07.2021
(Video-Conferencing)

C .HARI SHANKAR, J .

O.M.P.(I) (COMM.) 148/2021 & ARB.P. 542/2021

1. These are cognate petitions under Sections 9 and 11 of the Arbitration and Conciliation Act, 1996 ("1996 Act", in short), arising out of the same dispute.
2. The substratum of the dispute has already been set out by this Court in some detail in its order dated 29th April, 2021 in OMP(I)(COMM) 148/2021, which shall, therefore, be treated as a part of this order and is not being repeated, for the sake of brevity. Consequent to the aforesaid recital of facts, this Court, vide order dated 29th April, 2021 (supra), granted ad interim stay of operation of the termination notice dated 13th April, 2021 with which the common petitioner in both these petitions is aggrieved. Additionally, the respondent, Pawan Hans Ltd was restrained from acting on the basis of the said notice or invoking the bank guarantees provided by the petitioner.
3. Learned counsels before me are, today, ad idem, that in order to expedite matters, the dispute between the parties may be referred to an arbitrator to be appointed by this Court. I am informed that the total claim between the parties is in the region of 2 crores to 3 crores. Accordingly, the Court appoints Mr. Amrit Pal Singh Gambhir, Advocate (Cell: 09810082347, 09999983935) as arbitrator to arbitrate on the disputes between the parties.
4. The learned arbitrator shall enter on the reference as expeditiously as possible and shall, within a week of entering on reference, furnish the requisite disclosure under Section 12(2) of the 1996 Act.
5. The learned arbitrator shall also decide the present petition under Section 9 of the 1996 Act (OMP(I)(COMM) 148/2021), treating it as an application under Section 17 of the 1996 Act. It is made clear that the petitioner is not required to re-file the petition as an application under Section 17 and that OMP(I)(COMM) 148/2021 shall be permitted to be placed before the learned arbitrator for adjudication thereof, as a Section 17 application.
6. The right of the respondent to file a reply to OMP(I)(COMM) 148/2021, before the learned arbitrator takes it up for hearing, shall also stand reserved.
7. The learned arbitrator is requested to take up and decide OMP(I)(COMM) 148/2021, as an application under Section 17 of the 1996 Act, as expeditiously as possible as there is an ex parte ad interim order operating in favour of petitioner and against the respondent.
8. With the aforesaid directions, these petitions stand disposed of. Interim order dated 29th April, 2021 shall continue till OMP(I)(COMM) 148/2021 is decided by the learned arbitrator (treating it as an application under Section 17) and shall abide by the further orders to be passed by the learned arbitrator in that regard. It is made clear that the learned arbitrator would be at liberty, should he so

choose to amend, modify or vary the order dated 29th April, 2021.

C. HARI SHANKAR, J.

JULY 20, 2021 r.bararia