

Shri Bhagwan Projects Private Limited vs Telecommunications Consultants India ... on 4 May, 2023

Author: Chandra Dhari Singh

Bench: Chandra Dhari Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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O.M.P. (COMM) 156/2023 & I.A. 7967/2023

SHRI BHAGWAN PROJECTS PRIVATE LIMITED Petitioner

Through: Mr. A. K. Vali, Mr. Bhaskar Vali and
Mr. Rajat Jain, Advocates

versus

TELECOMMUNICATIONS CONSULTANTS INDIA LIMITED

Through:

.....
Ms. Harshita Sinha and Ms.
Priya, Advocates (Proxy)

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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04.05.2023

I.A. 7966/2023 (Exemption)

Subject to the petitioner filing the clear, original and legible/typed copies of any dim documents on which the petitioner may seek to place reliance, within four weeks from today, exemption is granted for the present.

The application is disposed of.

O.M.P. (COMM) 156/2023

1. The instant petition under Section 34 of the Arbitration and Conciliation Act, 1996 has been filed on behalf of the petitioner seeking the following reliefs "a. Set aside the Impugned Award dated 15.12.2022 passed by the Ld. Sole Arbitrator in Arbitration Case No. SBP/LINK/ 1021 titled Shri Bhagwan Projects Private Limited Vs Telecommunications Consultants India Limited; b. Call for the arbitral record in Arbitration Case No. SBP/LINK/1021 titled Shri Bhagwan Projects Private Limited Vs Telecommunications Consultants India Limited; c. direct that de novo arbitration be conducted, and; d. Pass any such other / further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. Learned counsel appearing on behalf of the petitioner submitted that the BSNL sub-contracted to the respondent for laying, commissioning and installation of optical fiber cables (hereinafter "OFC") for various links in the state of Rajasthan. It is submitted that the respondent issued Notice Inviting Tender to execute Optical Fiber Cable laying work and related activities in Rajasthan for NLD Links bearing No. 5, 21 and 22. The NLD Link-21 was further bifurcated into 2 works i.e. one for Link ID: 1020 for a stretch of 66 Km and another for Access IC: 8074 for a stretch of 5 Km. Whereas the NLD Link - 22 is identified as Link ID 1021.

3. It is submitted that the bid to execute Optical Fiber Cable laying and construction work and related activities in Rajasthan for NLD Link bearing No. 22 (ID 1021). The petitioner's bid succeeded and the respondent, vide email dated 11th December, 2015 issued purchase order to the petitioner, bearing no. TCIL/15/1678/I/15-MM/857/096P for NLD Link 22(ID1021) amounting to Rs. 7,29,43,942/-.The petitioner submitted Work Programme to the respondent. As per the Work Programme, the work was to be completed by 18th March, 2016. Joint Route Survey was carried out by the officials of the BSNL, Army, respondent, and the petitioner. The respondent on the same day for the first time provided the Survey Report dated 2nd December, 2014 to the petitioner.

4. It is submitted that there were various delays in the project. All the delays were a consequence of the failure of the respondent to get conducted the contractually mandated independent third party route survey. Moreover, there were delays in issuance of ROW permissions by various authorities, among other causes. The second class of delays are those where the delay is attributable directly to the respondent/respondent's employer on account of delay in taking decision and/or other acts of omission and commission.

5. It is submitted that due to the various delays on account of the defaults on the part of the respondent, the petitioner was constrained to invoke arbitration as per Clause 3.17 of the Tender Document dated 15th October, 2015 and issued request for appointment of Sole Arbitrator vide Letter No. SBP/Link 1021/2020-21/002 dated 4th November, 2020 to the respondent. It is submitted that the Sole Arbitrator was appointed by the respondent on 18th December, 2020 and passed the impugned award on 15th December 2022.

6. Heard.

7. Issue notice. Proxy counsel appearing on behalf of the respondent accepted notice and prayed for four weeks' time to file reply/objection. Let the same be filed within four weeks as prayed. Rejoinder thereto, if any, be filed within two weeks thereafter.

8. Both the parties are also directed to file written submissions along with convenience compilation of documents before the next date of hearing.

9. List on 16th August, 2023 for final hearing.

CHANDRA DHARI SINGH, J MAY 4, 2023/gs/db Click here to check corrigendum, if any