

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO. 5306 OF 2022

M/s Shree Vishnu Constructions

...Petitioner(s)

Versus

The Engineer in Chief, Military Engineering Service
& Ors.

...Respondent(s)

O R D E R

Pursuant to our earlier orders, the respective High Courts have sent the statements regarding pending applications under Section 11(6) of the Arbitration and Conciliation Act, pending in the respective High Courts. It is seen that numbers of applications under Sections 11(5) and 11(6) of the Arbitration Act are pending since more than one year. In many High Courts, applications for appointment of the arbitrator(s) are pending for more than four to five years. Even, in the statement of High Court Rajasthan at Jodhpur, many applications are pending, which are found to be defective. Some of the defective applications are pending since 2016 onwards. Pendency of large number of applications under Section 11(5) and 11(6) of the Arbitration Act, shows a very sorry state of affairs.

The arbitration proceedings under the Arbitration and Conciliation Act are said to be a part of the Alternative Dispute

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Resolution System. Having found that it takes a number of years in deciding and disposing of suits by the civil courts for a variety of reasons and with a view to see that the Commercial disputes are decided and disposed of and resolved at the earliest, the Arbitration and Conciliation Act has been enacted and hence, the Arbitration proceedings have been accepted as an effective Alternative Dispute Resolution Mechanism. Therefore, if the arbitrators are not appointed at the earliest and the applications under Sections 11(5) and 11(6) of the Arbitration Act are kept pending for a number of years, it will defeat the object and purpose of the enactment of the Arbitration Act and it may lose the significance of an effective Alternative Dispute Resolution Mechanism. If the Commercial disputes are not resolved at the earliest, not only it would affect the commercial relations between the parties but it would also affect economy of the country. It may affect the ease of doing business in the country. If the country has to compete with the global business, a confidence has to be fostered that in our country the commercial disputes are resolved at the earliest and it does not take a number of years in resolving such Commercial disputes.

Even the amended Arbitration Act as well as the Commercial

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Courts Act mandate that the Commercial disputes are to be decided and disposed of within a period of one year. Further, the Arbitrators are mandated to declare the award within a period of one year. Therefore, if the applications under Sections 11(5) and 11(6) of the Arbitration Act for appointment of arbitrators are kept pending for a number of years, it would defeat the object and purpose of the enactment of the Arbitration and Conciliation Act as well as the Commercial Courts Act. The litigant may lose the faith in the justice delivery system, which may ultimately affect not only rule of law but commerce and business in the country. Therefore, the applications under Sections 11(5) and 11(6) of the Arbitration Act and other applications, either for substitution and/or change of the Arbitrator have to be decided and disposed of at the earliest.

In that view of the matter, we request all the Chief Justices of the respective High Courts to ensure that all pending applications under Sections 11(5) and 11(6) of the Arbitration Act and/or any other applications either for substitution of arbitrator and/or change of arbitrator, which are pending for more than one year from the date of filing, must be decided within six months from today. The Registrar General(s) of the respective High Courts are directed to submit the

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compliance report on completion of six months from today. All endeavour shall be made by the respective High Courts to decide and dispose of the applications under Sections 11(5) and 11(6) of the Arbitration Act and/or any other like application at the earliest and preferably within a period of six months from the date of filing of the applications.

A copy of this order to be circulated by the Registry of this Court to Registrar Generals of all High Courts so as to be placed before the respective Hon'ble Chief Justices for taking further action in the matter.

.....J.
[M.R. SHAH]

.....J.
[B.V. NAGARATHNA]

NEW DELHI;
May 19th, 2022

ITEM NO.13

COURT NO.11
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SECTION XII-A

Petition for Special Leave to Appeal (C) No.5306/2022
(Arising out of impugned final judgment and order dated 30-06-2020
in ARBA No. 151/2016 passed by the High Court For The State Of
Telangana At Hyderabad)

M/S SHREE VISHNU CONSTRUCTIONS

Petitioner(s)

VERSUS

THE ENGINEER IN CHIEF MILITARY ENGINEERING
SERVICE & ORS.

Respondent(s)

(MR. GOPAL JHA, ADVOCATE FOR RAJASTHAN HIGH COURT, MR. NARESH KUMAR
SHARMA, COUNSEL FOR THE HIGH COURT OF TRIPURA)

Date : 19-05-2022 This petition was called on for hearing today.
CORAM :

HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. K. Parameshwar, AOR
Ms A Sregurupriya, Adv.

For Respondent(s) Ms. Megha Karnwal, AOR

Mr. Gopal Jha, AOR
Mr. Nishant Verma, Adv.

Mr. Sanjay Jain, ASG
Mr. Anukalp Jain, Adv
Mr. Padmesh Mishra, Adv.
Mr. Yuvraj Sharma, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Sibbo Sankar Mishra, AOR
Mr. Uma Kant Misra, Adv.
Mr. Rajesh Nayak, Adv.

Mr. Sandeep Sudhakar Deshmukh, Adv.

Mr. Nikhil Goel, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The Court passed directions in terms of the signed order.

Put up on 13.07.2022.

(NEETU SACHDEVA)
COURT MASTER (SH)

(signed order is placed on the file)

(NISHA TRIPATHI)
ASSISTANT REGISTRAR

