



THE HIGH COURT OF SIKKIM : GANGTOK
(Civil Jurisdiction)

S.B.: HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI, ACJ.

Arb. P. No. 01 of 2016

1. Vijay Bhushan,
S/o Late Pitambar Lal,
R/o 24, Pusa Road, New Delhi-110 005,
Through authorized signatory,
Alok Kumar Singhal,
S/o Shri Gokul Chandra Singhal,
R/o PP House, Naya Bazar,
Word No. 8, 2nd Floor, Siliguri – 734 005.
2. Pitambar Infovision, Pvt. Ltd.,
M/s Computel Systems & Services,
10 Community Centre, Mayapuri Phase I,
New Delhi – 110 064

... Petitioners

versus

1. State of Sikkim, through Director,
Directorate of Technical Education,
Human Resource Development Department,
Government of Sikkim, Tashiling,
Gangtok-737 103.
2. Director,
Directorate of Technical Education,
Human Resource Development Department,
Government of Sikkim, Tashiling,
Gangtok-737 103.

... Respondents

**Petition under Section 11 of the Arbitration and
Conciliation Act, 1996**



Appearance:

Mr. K.T. Bhutia, Sr. Advocate with Ms. Sarita Bhusal,
Advocate for the Petitioners.

Mr. Karma Thinlay, Sr. Govt. Advocate with Ms. Pollin Rai,
Asstt. Govt. Advocate and Mr. Bhusan Nepal, Legal
Retainer, HRDD for the State-Respondents.

O R D E R
(02.09.2016)

Satish K. Agnihotri, ACJ

The petitioners moved this Court under Provisions of Section 11 of the Arbitration and Conciliation Act, 1996, seeking appointment of an Arbitrator as per clause 21 of the agreement dated 21.11.2008 between the petitioners and the respondents to resolve disputes pending therein.

2. During currency of the petition, learned Senior Counsel, appearing for the parties, on instructions, made oral request with consent to refer the disputes to mediation mechanism. Accordingly, the disputes, involved therein, were referred to the mediation by order dated 01.07.2016. The disputes have been settled on intervention of the Mediator and agreement dated 03.08.2016 is duly signed by all the concerned parties as well as by the Counsel, appearing for them.



3. Having considered the afore-stated settlement by way of mediation, the petition is disposed of, wherein the mediation agreement shall form part of the order, which reads as under:-

“AGREEMENT

This agreement is made this date 3rd of August, 2016 between Shri Vijay Bushan son of Late Pitambar Lal, Resident of 24, Pusa Road, New Delhi- 110 005 and M/s Pitambar Infovision Private Limited, M/s Computel Systems and Services, 10 Community Centre, Mayapuri Phase-I, New Delhi 110 064 represented by Shri Alok Kumar Singhal, son of Shri Gokul Chandra Singhal, Resident of P. P. House, Naya Bazar Ward No. 8, 2nd Floor Siliguri 734 005, (hereinafter referred to as the FIRST PARTY) on the one part

AND

State of Sikkim, through the Director, Directorate of Technical Education, Human Resources Development Department, Government of Sikkim, Tashiling, Gangtok – 737 103 and the Director, School Education, Human Resources Development Department, Tashiling Gangtok 737 103, (hereinafter referred to as the SECOND PARTY) on the other part.

WHEREAS, the first party filed a petition before the Hon'ble High Court of Sikkim, at Gangtok being ARB. P. No. 1 of 2016 (Vijay Bhushan &

Sd/-
Vijay Bhushan

Sd/-
Alok K. Singhal

Sd/-
M. T. Sherpa

Sd/-
Rajendra Chhetri



another – Versus – Director, Directorate of Technical Education and another) for appointment of sole arbitrator to adjudicate upon the disputes between the first party and the second party.

AND WHEREAS, while hearing the matter by the Hon'ble High Court and on the agreement of the parties, vide order dated 01.07.2016 referred the matter for mediation between the parties.

AND WHEREAS, the mediation for this matter was fixed for today for deliberation and settlement.

AND WHEREAS, on notice the first party and the second party along with the Senior Counsel for the first party Shri K. T. Bhutia, Senior Advocate assisted by Ms. Sarita Bhusal and Ms. Bandana Pradhan, Advocates and Shri Bhushan Nepal, Counsel for the second party were present in the deliberation of mediation.

AND WHEREAS, Shri Narendra Rai, Senior Advocate has been appointed the mediator to negotiate and settle the matter through mediation. Accordingly, the mediation, negotiation and deliberation took place at the mediation hall, District Court premises, Gangtok, East Sikkim.

AND WHEREAS, on thorough discussion deliberation and negotiation, it came into light that the dispute between the first party and second party is in respect of supply of computers, its allied accessories and the teachers for computer education to be effected by the first party and in view of the same an amount of Rs.9,39,53,000/- (Rupees nine crore thirty nine lakhs fifty three thousand) only, was to be paid to the first party by the second party.

Sd/-
Vijay Bhushan

Sd/-
M. T. Sherpa

Sd/-
Alok K. Singhal

Sd/-
Rajendra Chhetri



Out of the said amount past payment was made by the second party to the first party and the present outstanding due comes to Rs.1,49,68,208/- (Rupees one crore forty nine lakhs sixty eight thousand two hundred and eight) only, to be paid to the first party by the second party.

AND WHEREAS, the default in payment by the second party to the first party was calculated from the month of July 2012. Damages amounting to Rs.40,00,000/- (Rupees forty lakhs) only, and the interest at the rate of 18% per annum to the unpaid amount was also being claimed by the first party. Thus, the present claim of the first party amounts to Rs.2,97,45,317/- (Rupees two crore, ninety seven lakhs forty five thousand three hundred and seventeen) only.

AND WHEREAS, the second party on negotiation admitted the outstanding sum to be Rs.1,49,68,208/- (Rupees one crore forty nine lakhs sixty eight thousand two hundred and eight) only, and deliberated that the Government of Sikkim cannot be burdened with the damages of Rs.40,00,000/- (Rupees forty lakhs) only, and interest of 18% on the unpaid cost of the supplies of the first party.

AND WHEREAS, on thorough discussion negotiation and deliberation the first party and the second party came to an amicable settlement on the following terms and conditions:-

Sd/-
Vijay Bhushan

Sd/-
M. T. Sherpa

Sd/-
Alok K. Singhal

Sd/-
Rajendra Chhetri



1. That the first party shall not charge 18% interest and damage of Rs.40,00,000/- (Rupees forty lakhs) only, if the payment of the outstanding sum of Rs.1,49,68,208/- (Rupees one crore forty nine lakhs sixty eight thousand two hundred and eight) only, is paid on or before 31st day of December, 2016 and for any unseen event and circumstances, they can wait till 31st day of March, 2017 i.e the last day of current financial year.
2. That the second party has agreed to pay the outstanding sum of Rs.1,49,68,208/- (Rupees one crore forty nine lakhs sixty eight thousand two hundred and eight) only, to the first party on or before 31st day of December, 2016 and incase of any unseen happenings, they may release the payment not later than 31st day of March, 2017 i.e., the last day of the current financial year.
3. That it is also agreed by both the parties that if in case the above mentioned outstanding amount is not paid by the first party to the second party on or before 31st day of March 2017 the second party will be liable to pay the damages and the interest at the rate of 18% on the entire unpaid amount from the month of July, 2012.

Sd/-
Vijay Bhushan

Sd/-
Alok K. Singhal

Sd/-
M. T. Sherpa

Sd/-
Rajendra Chhetri



4. That this agreement will be part of the order passed in ARB. P. No. 01 of 2016 pending before the Hon'ble High Court of Sikkim and the first party and second party will submit about this agreement being the part of the proceeding before the Hon'ble High Court.

In witness whereof the first party and second party have put their respective hands on the date herein above first mentioned.

COUNSEL FOR THE PARTIES	PARTIES
<i>Sd/-</i>	<i>Sd/-</i>
1. Sarita Bhusal (Adv.)	1. Vijay Bhushan
<i>Sd/-</i>	<i>Sd/-</i>
<i>dated</i>	2. Alok K. Singhal
2. Bhusan Nepal (Adv.)	<i>Sd/-</i>
	3. M. T. Sherpa
	<i>Sd/-</i>
	4. Rajendra Chhetri
	<i>Sd/-</i>
	N. Rai
	(Mediator)”

4. In view of the disposal of the main petition, no order is necessary in I.A. No.2 of 2016.

Sd/-
Acting Chief Justice
02.09.2016

pm/ to Index : ~~Yes~~ / No
Internet : Yes / ~~No~~