

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).4653/2006

(From the judgement and order dated 29/04/2005 in MJC No. 121/2002 of The HIGH COURT OF ORISSA AT CUTTACK)

UTKAL GALVANIZERS LTD.

Petitioner(s)

VERSUS

ORISSA HYDRO POWER CORPN.LTD. & ORS.

Respondent(s)

(With office report)

Date: 05/01/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE TARUN CHATTERJEE

For Petitioner(s)

Mr. M.L. Varma, Sr. Adv.

Mr. Manoj Misra, Adv.

Mr. Rajiv S. Roy, Adv.

Mr. N.K. Sahoo, Adv.

Mr. Pranab Kumar Mullick,Adv.

For Respondent(s)

Mr. Shyam Diwan, Sr. Adv.

Mr. Shibashish Misra,Adv.

UPON hearing counsel the Court made the following

O R D E R

er is not averse to Counsel for the petitioner submits that the petition
er is not averse to an arbitrator being appointed who may adjudicate the disputes bet
ween the parties.

Counsel for the respondents also is not against the appointment o

f an arbitrator to

resolve the disputes between the parties, but he submits that the petitioner may move

the State of Orissa which shall refer the matter to arbitration by the Arbitration

Tribunal, Bhubaneswar in accordance with Clause 3.39(f) of the General Conditions

of Contract. Mr. M.L. Varma, Senior Advocate appearing on behalf of the petitioner

submits that the Arbitration Tribunal contemplated by the aforesaid clause does not

in fact exist and, therefore, there is no question of asking the State Government for a

reference to the said Tribunal. He also submits that in view of the provisions of the

Arbitration and Conciliation Act, 1996, a later Act, where there is no provision

similar to Section 41-A under the Arbitration Act, 1940, there may be some doubt as

to whether the Tribunal continues to exist in the absence of any similar amendment to

the 1996 Act. He, however, submits that if Clause 3.39 (f) is applicable, the petitioner

is willing to make the security deposit required to be made under the said clause.

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With a view to resolve the dispute effectively, we consider it necessary to

implead State of Orissa as a party respondent. On an oral prayer made on behalf of

the petitioner, State of Orissa through its Chief Secretary is impleaded as a party

respondent. Let notice issue to the State of Orissa so that in its presence the question may be considered. Notice be made returnable within three weeks. Dasti service, in addition, is permitted.

(Ajay Kr. Jain)
Dhawan)

Court Master
Master

(Vijay

Court