

21-07-2015

BEFORE JUSTICE R.C. LAHOTI (Fr. CJD)
SOLE ARBITRATOR

IN THE MATTER OF ARBITRATION

BETWEEN

M/s HCL Infosystems Ltd. Claimant

And

The Government of NCT Respondent

Order
(dt. 21.07.2015)

The matter stands appointed for four days, from July 27 to July 30, 2015, everyday 11.00 am to 04.00 pm, for recording evidence. Yesterday, an application has been received on behalf of the Respondent, praying for: (i) adjournment enabling the parties to comply with the directions stated in the *Procedural Order No. 10* dt. 22-01-2015; and (ii) appointing new set of dates for filing affidavits and recording cross examination.

It is noteworthy that the Delhi High Court by Order dt. 14-05-2014, while appointing the undersigned as Sole Arbitrator, has also observed that the fees of the Arbitrator shall be as per the rules of DIAC. By this time, *ten* hearings have been held, each for reasonable length of time and on every date, submissions of the parties have been heard, followed by interim orders from time to time, made in public interest. The DIAC Rules do not have provision for the Arbitrator's fee visualizing the nature of the reliefs sought for and the complexity of dispute calling for several interim orders as in the present case. Accordingly, in consultation with the Ld. Counsel for the Parties, it was directed on 22-01-2015 that the fee of the Sole Arbitrator will be determined on 27-07-2015.

The upcoming dates of hearing were appointed six months before. None of the parties has filed affidavits of witnesses in spite of specific directions given for the purpose, with detailed practice directions.

Put up
urgently
22/7/15
Sh. Joshi

Having perused the contents of the Respondent's application, I am not satisfied that the delay and default are adequately explained.

Still in the interest of justice, the application for adjournment is allowed but subject to terms. It is directed as under:

- (i) The dates for recording of evidence presently appointed as 27th to 30th July are cancelled.
- (ii) Both the parties are allowed time till 30-09-2015 for filing affidavits of evidence but as a matter of last opportunity. The defaulting party shall lose its right of filing affidavits.

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- (iii) The Tribunal will meet on 09-10-2015 at 04.30 pm for the purpose of issuing directions and appointing fresh dates for recording evidence. On the same day the fee of the Sole Arbitrator shall also be settled in consultation with the parties and their Ld. Counsel.
- (iv) The parties remain liable to compensate the Sole Arbitrator for the days wasted @ Rs. 50,000 per day to be contributed in equal shares by the two parties. The amount shall be deposited with the Sole Arbitrator on or before 01-09-2015.

The application also states that the Police Department proposes to engage a Counsel of their own. The Tribunal has no objection. However, it made clear that the party before the Tribunal is Government of NCT, Delhi and one party shall have the right of being heard through one advocate only.

(R. C. Lahoti)
Sole Arbitrator
21-07-2015