

Misc. Arbitration Case (Commercial)– 06/2024
CNR :WBBD17-000008-2024
JO Code : WB01311

Order No – 10

Dated 23/09/2024

This day is fixed for hearing of IA no.06 of 2024.

Both sides file hazira.

The application is taken up for hearing.

It is an application U/Or. I Rule 10 (2) of the Code of Civil procedure filed by the respondent for impleading the Arbitral Tribunal as a party to the instant petition U/sec 34 of the A & C Act.

The award was passed by the Arbitral Tribunal consisting of five members of the West Bengal State Micro Small Enterprises Facilitation Council, Kolkata.

According to the petitioner the award was ante dated as 17/01/2023 but actually was pronounced, signed and issued through the certified copy prepared and forwarded by the Council vide Memo dated 14/09/2023 which was dispatched to the petitioner by Speed Post on 26/09/2023 and was received by the petitioner on 29/09/2023.

It is submitted by the Ld. Advocate for the petitioner that the email dated 17/01/2023 by the Council goes to show that the hearing was rescheduled by the Council for 18/01/2023 instead of 17/01/2023 and as such the award could not be passed on 17/01/2023.

The Ld. Advocate for the respondent submitted that there maybe some typographical errors or clerical errors on the part of the Tribunal and hence the Arbitral Tribunal is required to be added as a party in the instant case.

The Ld. Advocate for the respondent however failed to satisfy the Court as to under which provision of law the Arbitral Tribunal can be impeded as a party.

If there were at all any typographical error in the award the respondent could have U/sec. 33 of the A& C Act, 1996 taken steps for correcting the alleged clerical or typographical error.

The Court fails to understand as to how the order dated 14/12/2023

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and 22nd November, 2023 passed by the Hon'ble Court in WPA25937 of 2023 and WPO/1659/2023 are applicable to be facts and circumstances of the instant case.

The Ld. Advocate for the respondent has failed to satisfy the Court as to how the Arbitral Tribunal is a necessary party in a petition U/sec 34 of the A & C Act.

I do not find any merit in the application filed by the respondent.

Accordingly IA no. 06 of 2024 dated 26/07/2024 stands rejected.

The petitioner has filed the documents in volume-I relating to the Arbitral proceedings . Let the same be kept with the record.

Fix 27/11/2024 for hearing of the sec. 34

D/C by me

Judge, Commercial Court
Asansol

Judge, Commercial Court
Asansol