

GAHC010101882019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Arb.P./18/2019

M/S. BHARTIA INFRA PROJECTS LTD.
(FORMERLY KNOWN AS BHARTIA ASSOCIATES PVT. LTD.) UNDER THE
COMPANIES ACT, 1956, HAVING ITS REGD. OFFICE 201 ROYAL ARCADE,
DR. B BARUAH ROAD, ULUBARI, GUWAHATI, ASSAM.

VERSUS

UNION OF INDIA AND ANR.
REP. BY THE GENERAL MANAGER, N. F. RAILWAY, MALIGAON,
GUWAHATI-781011.

2:THE CHIEF ENGINEER
N. F. RAILWAY
MALIGAON
GUWAHATI-781011

Advocate for the Petitioner : MR. R HUSSAIN

Advocate for the Respondent : SC, NF RLY

Linked Case : Arb.P./41/2020

M/S BHARTIA INFRA PROJECTS LTD.
FORMERLY KNOWN AS BHARTIA ASSOCIATE PVT. LTD.
A COMPANY INCORPORATED UNDER THE COMPANIES ACT
1956 HAVING ITS REGD. OFFICE AT 201
ROYAL ARCADE
DR. B. BARUAH ROAD
ULUBARI
GUWAHATI- 781007
ASSAM.

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE GENERAL MANAGER (CON)
N.F. RAILWAY
N.F. RAILWAY
MALIGAON
GUWAHATI- 781011.

2:THE CHIEF ENGINEER/CONSTRUCTION- I
N.F. RAILWAY
MALIGAON
GUWAHATI- 781011.

3:THE DY. CHIEF ENGINEER/CON-II
N.F. RAILWAY
MALIGAON
GUWAHATI- 781011.

4:THE FA AND CAO/CON
N.F. RAILWAY
MALIGAON
GUWAHATI- 781011.

5:SRI S.P. SINGH
CHIEF ENGINEER/CON-VIII
OFFICE OF GENERAL MANAGER (CONSTRUCTION)
N.F. RAILWAY
MALIGAON
GUWAHATI- 781011.

6:SHRI S. HAJONG
THE THEN CPRO/MLG AND NOW
GGM/RVNL/MLG AND CO-ARBITRATOR
OFFICE OF GENERAL MANAGER (CONSTRUCTION)
N.F. RAILWAY
MALIGAON
GUWAHATI- 781011.

7:SHRI P. MAHANTI
RETD. FA AND CAO/EAST COAST RAILWAY
OFFICE OF GENERAL MANAGER (CONSTRUCTION)
N.F. RAILWAY
MALIGAON
GUWAHATI- 781011.

Advocate for : MR. R HUSSAIN

Advocate for : SC

NF RLY appearing for THE UNION OF INDIA AND 6 ORS

**BEFORE
HONOURABLE MR. JUSTICE N. KOTISWAR SINGH**

ORDER

Date : 27.09.2021

Heard Mr. R. Hussain, learned counsel for the petitioner. Also heard Ms. G. Sharma as well as Mr. G. Goswami, learned Standing Counsel, N.F. Railways.

2. The issue involved in these petitions is the applicability of Section 12(5) of the Arbitration and Conciliation Act, 1996, which prohibits any employee of either party to be appointed as an arbitrator.

3. It is the submission of the Railway respondents that since the arbitration proceeding was initiated prior to amendment of the Act, the provisions of Section 12(5) will not be applicable. In this regard, the following decisions have been relied upon:-

1. Rajasthan Small Industries Corporation Limited Vs. Ganesh Containers Movers Syndicate, (2019) 3 SCC 282;

2. Union of India Vs. Parmar Construction Company, (Civil Appeal No.3303/2019) decided on 29.03.2019.

4. Mr. Hussain, learned counsel for the petitioner, submits that he will submit on this issue on the next day that may be fixed by this Court.

5. In view of above, list the matter again on 01.11.2021.

JUDGE

Comparing Assistant