

GAHC010145962020



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

Case No. : Arb.P./40/2020

NAYAK INFRASTRUCTURE PVT LTD
A COMPANY REGD. UNDER THE COMPANIES ACT, 1956 AND HAVING ITS
REGD. OFFICE AT SWARUPNANDA ROAD, LUMDING-782447, P.O.
LUMDING, DIST. NAGAON AND ITS PRINCIPAL OFFICE AT 2ND FLOOR,
KAMAKHYA COMMERCIAL, C.K. ROAD, PAN BAZAR, GUWAHATI-781001
AND IS REP. BY ITS MANAGING DIRECTOR, SHRI ANANTA CHARAN
NAYAK, R/O. SWARUPA NANDA ROAD, LUMDING, DIST. NAGAON, ASSAM.

VERSUS

NORTH EAST FRONTIER RAILWAY (CONS ORGANISATION) AND ANR
REP. BY THE GENERAL MANAGER/CONSTRUCTION, MALIGAON,
GUWAHATI-781011, KAMRUP (M), ASSAM.

2:CHIEF ENGINEER/CONSTRUCTION-2

NORTH EAST FRONTIER RAILWAY (CONSTRUCTION ORGANISATION)
REP. BY THE GENERAL MANAGER/CONSTRUCTION
MALIGAON
GUWAHATI-781011
KAMRUP (M)
ASSAM

Advocate for the Petitioner : MR G N SAHEWALLA

Advocate for the Respondent : SC, RAILWAY

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

ORDER

Date : 05.01.2022

Heard Mr. U.K. Nair, learned Senior counsel for the petitioner. Also heard Ms. G. Sharma, learned Standing Counsel, N.F. Railways.

2. It is the case of the petitioner that in terms of Clause 64(1)(i) of the agreement, the petitioner served notice to the General Manager (Construction), N.F. Railways vide notice dated 26.05.2020, which was duly received by the concerned authority. However, since there was no response from the Railway Authorities, the petitioner has approached this Court.

3. Ms. G. Sharma, learned Standing Counsel, N.F. Railways, however, submits that the said notice was never received by the General Manager (Construction) as the said notice was addressed to General Manager, N.F. Railways, which, ultimately, went to General Manager (Open Line) and since the General Manager (Construction) was the concerned authority to decide the matter, it cannot be said that the notice has been properly received by the concerned authority for the purpose of arbitration.

4. Mr. Nair, learned Senior counsel, however, submits that the General Manager (Construction), N.F. Railways is a part of the aforesaid General Manager (Open Line) and if the General Manager (Open Line) has received the notice, it can be construed that the General Manager (Construction) has received the same.

5. In view of above, this Court like to know from Ms. Sharma as to what happened to the said notice received by the Railway Authorities on 29.05.2020 and what action the Railway Authorities took after receipt of the same.

Accordingly, list the matter again on 24.01.2022.

JUDGE

Comparing Assistant