

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Civil Appeal No.2291 of 2008 @
Petition(s) for Special Leave to Appeal (Civil) No(s).6302/2006

(From the judgement and order dated 27/07/2005 in AA No.158/2005
of The HIGH COURT OF DELHI AT N. DELHI)

B.S.N.L. Petitioner(s)

VERSUS

M/S.CONTINENTAL TELEPOWER INDUSTRIES LTD Respondent(s)

[With appln(s) for c/delay in filing SLP, with prayer for interim
relief and office report]

Date: 31/03/2008 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE DALVEER BHANDARI

For Petitioner(s) Mr. Sukumar Pattjoshi, Adv.
Mr. Rakesh Kumar Singh, Adv.for
Mr. Sudarsh Menon, Adv.

For Respondent(s) Mr. Sudhir Kumar Gupta, Adv.

UPON hearing counsel the Court made the following
ORDER

Delay condoned. Leave granted.

The Appeal is allowed in terms of the signed order. No costs.
(Parveen Kr. Chawla) (Kanwal Singh)
Court Master Court Master
[Signed Not-Reportable Order is placed on the File]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2291 OF 2008
(Arising out of SLP(C) No.6302 of 2006)

Bharat Sanchar Nigam Ltd. ..Appellant

versus

Continental Telepower Industries Ltd. ..Respondent

ORDER

Delay condoned.

Leave granted. Heard the learned counsel for the parties.

Respondent herein filed an application before the High Court of

Delhi under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short 'the Act') for appointment of an arbitrator to resolve the dispute between the parties.

By the impugned order dated 27.07.2005, the designated Judge allowed the said application without giving any notice to the respondent therein (appellant herein) and appointed Mr. Justice Satpal, a retired Judge of the Delhi High Court as the sole arbitrator to arbitrate the dispute between the parties.

Feeling aggrieved, the appellant is before us. The appellant contends that the petition could not have been disposed of without notice to respondent therein (appellant herein). It is also contended that the petition was premature, as the request for appointment of arbitrator was on 29.6.2005 and the application was Civil Appeal No.2291/2008 contd.

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filed on 25.7.2005, and the appointment was made even before the expiry of the mandatory period of one month.

Learned counsel for the parties have referred to and relied upon the decisions of this Court in SBP & Co. v. Patel Engineering Ltd. & Another reported in (2005) 8 SCC 618 and ACE Pipeline Contracts Pvt. Ltd. v. Bharat Petroleum Corporation Limited reported in 2007 (5) SCALE 341.

We are of the view that the matter can be disposed of with reference to first issue and therefore we do not propose to examine the second issue. Since, the impugned order appointing the arbitrator was passed without giving notice to the appellant herein, we deem it appropriate in the interest of justice to set aside the impugned order and remit the matter to the High Court for deciding it afresh at the earliest in accordance with law after affording due opportunity to the parties. The appeal is allowed on the above terms. No costs.

.....J.
[R.V.RAVEENDRAN]

NEW DELHI;J.
MARCH 31, 2008 [DALVEER BHANDARI]