

ITEM NO.402

COURT NO.13

SECTION XVIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
ARBITRATION PETITION NO. 19 OF 2011

BIPROMASZ BIPRON TRADING SA

APPLICANT

VERSUS

BHARAT ELECTRONICS LIMITED(BEL)

NON-APPLICANT

Date: 15/02/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Petitioner(s) Mr. K.V. Vishwanathan, Sr.Adv.
Mr. M.R. Shamshad,Adv.
Mr. Vivek Vishnoi, Adv.
Mr. Ahmad S. Azhar,Adv.
Mr. Zaki Ahmad Khan,Adv.

For Respondent(s) Mr. S.N. Bhat,Adv.
Mr. Ravi Panwar,Adv.

UPON hearing counsel the Court made the following
O R D E R

I have heard learned counsel for the parties.

One of the issues raised in this petition would have a bearing on numerous matters as appointments made by the Department of an Arbitrator may not be communicated to the concerned party due to the usual lethargy of the Government Departments. The question, needs to be decided as to whether the appointment of an Arbitrator becomes effective from the date, it is communicated or from the date when the appointment is sought to be made by the Department.

2

Mr. Vishwanathan, learned senior counsel has relied upon a Constitution Bench Judgment of this Court in Bachhittar Singh vs. State of Punjab & Another reported in AIR 1963 SC 395 which has been followed by the Delhi, High Court in R.S. Avtar Singh & Co. vs. India Tourism Development Corporation Ltd. 2003 (2) Arb.LR 503 (Delhi) in support of the submission that the appointment not communicated would be only provisional in character.

On the other hand, Mr. Bhatt, learned counsel appearing for the respondent relied upon the judgment of this Court in Ace Pipeline Contracts (P) Ltd. vs. Bharat Petroleum Corpn. Ltd., (2007) 5 SCC 304 to support his submission that late communication would not nullify and otherwise valid and legal appointment of a sole arbitrator.

The matter is adjourned for further hearing to 20.3.2012.

In the meantime, parties are directed to file their written submissions.

(KUSUM SYAL)
SR.P.A

(CHARANJEET KAUR)
COURT MASTER