

SUPREME COURT OF INDIA

Universal Insulators & Ceramics Ltd.

Vs.

U.P.Power Corporation Ltd.

C.A.Nos.7186-7189 of 2008

(R.V.Raveendran and D.K.Jain JJ.)

05.12.2008

ORDER

1. Leave granted.

2. Certain disputes between the appellant and the first respondent were referred to arbitration. Second respondent was the Arbitrator. A five member Committee was appointed by the State Government to examine the long pending claims of the appellant (said to be pending since 1985). The Committee made certain recommendations regarding payment. This Court by order dated 19.1.2004 directed that the Arbitrator will decide whether the recommendations of the said Committee should be accepted or not. The Arbitrator gave an interim award on 24.2.2004 holding that the recommendations by the committee were binding on the first respondent and directed payment by the first respondent to the appellant in terms of it. That was challenged by the first respondent by filing a petition under Sections 30 and 33 of the *Arbitration Act, 1940* ('Act' for short). The trial court rejected the objections raised by the first respondent in the said petition and made the award, the rule of the court. The first respondent challenged it before the High Court and the High Court (by its majority decision) set aside the interim award and directed the Arbitrator to decide the application under section 27 of the Act for interim award, afresh after giving due opportunity to the parties. The appellant has filed these appeals by special leave, challenging the said decision.

3. In the meantime, the Arbitrator (second respondent) died and a fresh Arbitrator has been appointed. The appointment of the new Arbitrator has been stayed.

4. In this background, the parties, after arguing this matter for sometime on the last date, felt that instead of again spending time and energy on the issue of interim award, they may as well proceed with and complete the process of arbitration in regard to the main disputes by referring the dispute to a mutually agreeable sole Arbitrator. On their request the matter was adjourned to today, so that the parties seek instructions.

5. They took instructions and when the matter came up today, submitted that Justice Saghir Ahmed, a former Judge of this Court who is currently based at Lucknow, may be appointed as the sole Arbitrator in place of the new Arbitrator, by consent for deciding the disputes. In view of the above, it is unnecessary to examine the matter on merits.

6. We accordingly dispose of these appeals with the following directions:

“(i) All disputes between appellant and first respondent which were pending before the deceased second respondent, are referred to Justice Saghir Ahmed, sole Arbitrator.

(ii) All records of arbitration (which were in the custody of the deceased Arbitrator or with the subsequently appointed Arbitrator) shall be transferred to Justice Saghir Ahmed.

(iii) Having regard to the chequered history of the case, both the parties shall cooperate with the Arbitrator hereby appointed (Justice Saghir Ahmed) for early disposal. We request the learned Arbitrator to decide the matter as early as possible preferably within six months. The Arbitrator may fix the fee payable by the parties.

(iv) It is needless to say that all questions are left open and the Arbitrator will decide the matter and make his award on merits uninfluenced by any observation made by the High Court or previous Arbitrator.

(v) Parties agree that there is no need to consider the issue of interim award and the disputes shall be decided finally.

(vi) This order will supersede any previous order regarding appointment of Arbitrator. The parties will bring this order to the notice of the court/s where the issue relating to appointment of Arbitrator is pending and get those proceedings closed.”