

AP No.699 of 2012
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

BOARD OF TRUSTEES FOR THE PORT OF KOLKATA
Versus
HALDIA BULKS TERMINALS PVT. LTD.
(FORMERLY KNOWN AS ABG HALDIA)

BEFORE:

The Hon'ble JUSTICE SANJIB BANERJEE

Date : 12th September, 2012.

Appearance:
Mr. Jishnu Saha, Adv.

Mr. Jayanta Mitra, Sr. Adv.
Mr. Abhrajit Mitra, Adv.

The Court : The parties have agreed to the following terms and counsel representing the petitioner and the respondent have handed over a sheet detailing the agreed terms:

- “1) Dry Bulk vessels calling in at Haldia Dock Complex (HDC, KoPT) for cargo handling operations will be allocated to berth

nos.2 or 8. However, if both berth nos.2 & 8 are engaged in ship-shore operations (or vice versa) using Mobile Harbor Cranes (MHCs), the next arriving vessel may be allocated to berths other than 2 or 8 of HDC.

This will be implemented without affecting

- a. the existing Minimum Guaranteed Tonnage (MGT) offered by BOT berth operators at HDC's Berth nos.4A & 12. The MGT offered by the BOT operators is as per the Concession Agreement signed between KoPT and BOT operators in respect of Berth nos.4A & 12.
 - b. the existing marketing agreement entered into between the BOT operator for berth no.4A.
- 2) KoPT will maximize the utilization of HBT's equipment by relocating them from Berth No.2 & 8 for working at other berths when Berths No.2 & 8 are vacant as per Clause No.1.33 of the tender.
 - 3) On berth nos.2 & 8, KoPT will allow the utilization of the 3rd MHC for improving the productivity of ships at the berths as per Clause 1.4 of the tender.
 - 4) KoPT shall resolve the issues relating to deductions from the bills done towards non-fulfillment of MLP for reasons which are beyond the control of HBT.
 - 5) KoPT shall resolve the issues relating to deductions made from HBT's bills raised towards evacuation of cargo for weighment related issues.
 - 6) Rake loading will be supervised by the importers-shippers. Clean rakes shall be made available to HBT to the extent possible."

The present disputes between the parties reflected in the petition under Section 9 of the Arbitration and Conciliation Act, 1996 stand resolved and the parties say that no reference need be initiated in respect of the disputes reflected in the petition at this stage.

The sheet containing the agreed terms has been signed by advocates representing the rival parties and should be retained with the papers.

Accordingly, AP No.699 of 2012 is disposed of by recording the terms as aforesaid and by requesting the parties to abide thereby.

There will be no order as to costs.

Urgent certified photocopies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SANJIB BANERJEE, J.)

bp.
A.R(C.R)