

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION,
(STATUTORY ORIGINAL JURISDICTION)**

Arbitration Application No.08 of 2019.

IN THE MATTER OF:

An application under section 20 of the Arbitration Act, 2001.

And

IN THE MATTER OF:

Bangladesh Chemical Industries Corporation
represented by its secretary.
..... Petitioner.

-Versus-

Arbitration Tribunal, represented by its Chairman
and others.
..... Respondents.

Mr. Md. Habibur Rahman, Advocate.
..... For the Petitioner.

No one appears.
..... For the Respondents.

The 17th day of July, 2025.

Present:

Mr. Justice Md. Toufiq Inam

On an application filed by the Bangladesh Chemical Industries Corporation (BCIC), the petitioner, under section 20 of the Arbitration Act, 2001, moved this Court by filing Arbitration Application No. 08 of 2019, seeking a declaration that the initiation of the arbitration proceedings by respondent No. 5, pursuant to Agreement No. Pur-3.2047/2009-2010/CT407(F)/3874 dated 07.12.2009, was without lawful authority as it was commenced without duly notifying the petitioner and involved arbitrary fixation of the remuneration of the arbitrators and the chairman, all without jurisdiction. The petitioner

also sought an order to stay the proposed arbitration proceedings. By order dated 07.07.2019, this Court admitted the application for adjudication and issued a Rule upon the respondents.

The matter has been placed before this Court for hearing pursuant to the order of the Hon'ble Chief Justice. None appears for the Respondents to oppose the application.

Mr. Md. Habibur Rahman, learned Advocate for the petitioner, submits at the outset that there is presently no validly constituted Arbitral Tribunal. Referring to the judgment passed in Civil Revision No. 1687 of 2019, he submits that although the learned District Judge initially appointed two arbitrators, one of them subsequently resigned. Thereafter, the learned District Judge appointed another arbitrator in his place. However, the said appointment was challenged, and this Court, in its revisional jurisdiction, by judgment and order dated 01.02.2024, set aside the appointment of the substituted arbitrator and made the Rule absolute.

In view of the above legal development, there exists no valid Arbitral Tribunal at present. Consequently, the present application, insofar as it challenges the arbitration proceedings and the fixation of remuneration of arbitrators, has become infructuous.

Since the High Court Division, in the aforementioned revision (Civil Revision No. 1687 of 2019), declared the appointment of respondent No. 2 as arbitrator to be illegal, any proceedings undertaken by such a tribunal would lack jurisdiction. However, should a new Arbitral Tribunal be constituted in accordance with law, the remuneration of the arbitrators must be fixed upon prior consultation with all concerned parties to ensure fairness and transparency.

This Court is guided by the fundamental principles of arbitration law which emphasize party autonomy, fairness, and due process. Arbitration proceedings must be conducted by a properly constituted tribunal, and any deviation from statutory or procedural requirements renders such proceedings void. Furthermore, fixing arbitrator remuneration without consulting the parties offends the principle of equality and mutual agreement that underpins arbitration. Hence, absent a lawful tribunal, the current proceedings are without jurisdiction.

With the above observations, the application stands disposed of.

Let this order be communicated at once.

(Justice Md. Toufiq Inam)

Sayed. BO.