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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ARB.P. 235/2013

SWEKA POWER-TECH ENGINEERS PVT LTD ..... Petitioner  
Through Mr.Gaurav Sarin, Adv. with  
Ms.Veera Angrish, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS  
..... Respondents

Through Ms.Mini Pushkarna, Standing  
Counsel with Mr.Shantanu Tyagi,  
Adv. for R-1/SDMC.  
Mr.Sunil Goel, Adv. with  
Mr.Susheel Bhartiya, Adv. for R-2/  
NDMC.  
Mr.Balendu Shekhar, Adv. for R-3/  
EDMC.

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN SINGH**

**ORDER**

% **30.05.2013**

**I.A.No.9491/2013 (exemption)**

Exemption allowed, subject to just exceptions.

The application is disposed of.

**Arb.P.No.235/2013**

The abovementioned petition has been filed by the petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of a sole Arbitrator.

The case of the petitioner is that it specializes in the manufacture and supply of decorative poles, bollards, decorative lighting fixture, electric pole, outdoor lighting like high mast, signage mast, mobile mast etc. The petitioner was awarded the work of up-gradation of the street lighting of

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roads in Delhi, which was divided into two parts. For the said purpose, an Agreement No.7/EE-V 01/07/08 dated 1<sup>st</sup> July, 2008 was executed. The petitioner was also awarded Work Order dated 8<sup>th</sup> June, 2009 bearing No.01/MWEEE-IV/2009-2010, and a revised Work Order dated 22<sup>nd</sup> July, 2010 bearing No.40/MUEEE-IV/2010-2011.

It is stated in the petition that the petitioner has worked diligently and has procured all men and material to execute the work to the entire satisfaction of the MCD which is evident from the Provisional Completion Certificate granted by the MCD on 29<sup>th</sup> September, 2010. Upon completion of the work to the satisfaction of the MCD, the petitioner was informed that the five-year maintenance part of the contract would be started from 25<sup>th</sup> September, 2011. The petitioner submits that despite providing efficient service and fulfilling all the obligations as per the terms and conditions of the agreement, it has been running from pillar to post to get its payment from MCD, till date. The ambiguity pertaining to jurisdiction of MCD and PWD had put the petitioner in tremendous financial stress, because the petitioner had been bearing expenses without the release of any payment. As per the petitioner, an amount of ₹1,57,14,218/- was due and payable to the petitioner. The petitioner sent demand letter dated 3<sup>rd</sup> October, 2012 to the offices of the Superintending Engineer (Electrical) of the North, West, South and East Delhi MCD Zones, raising thereby its demand for the payments due. No decision/response has been communicated from the concerned Superintending Engineers (Electrical) till date. In furtherance of the aforesaid demand letter, the petitioner in terms of Clause 25(i) of the Agreement had also written to the Chief Engineer (Electrical) of the North, South and East Zones of MCD vide letter dated 29<sup>th</sup> November, 2012. As there was no response, the petitioner by letter dated 5<sup>th</sup> April, 2013 issued to

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the Commissioner of South, North and East Delhi Municipal Corporation sought appointment of Arbitrator. However, the respondents failed to appoint the Arbitrator within a period of 30 days from the receipt of notice. Therefore, the present petition has been filed.

Notice of the petition was issued to the respondents. Without admitting the allegation made in the petition, the learned counsel for the respondents state that their clients have no objection if the prayer made in the petition be allowed, provided the respondents be given a chance to summon requisite documents which are lying before the CBI. They are agreeable that Justice R.C.Chopra (Retired) be appointed as a sole Arbitrator to adjudicate the disputes between the parties. Liberty as prayed for is granted. Thus, as agreed by both parties, Justice R.C.Chopra, Retired Judge of this Court (Mobile No.9818097777//9971411226) is appointed as sole Arbitrator to adjudicate all the disputes and differences between the parties. The Arbitrator shall conduct the proceedings under the provisions of the Arbitration and Conciliation Act, 1996 and shall give prior notice before commencing the proceedings. The fee of the learned Arbitrator shall be payable according to the schedule of fees fixed by Delhi High Court Arbitration Centre under its rules.

The petition is disposed of in the above said terms.

A copy of this order be communicated to the learned Arbitrator as well as the Secretary to the Arbitration Centre forthwith. Copies of the same be also given *dasti* to the learned counsel for the parties, under the signatures of the Court Master.

  
MANMOHAN SINGH, J.

MAY 30, 2013/ka