

Court No. - 19

Case :- CIVIL MISC. ARBITRATION APPLICATION No. - 68 of 2023

Applicant :- Smec International Pty Ltd. Thru Authorized Signatory Pushpendra Sharma

Opposite Party :- State Of U.P. Thru Prin.Secy. Namami Gange And Dept. Of Rural Water Supply Lko And Anr.

Counsel for Applicant :- Sumit Pandey, Shashwat Singh

Hon'ble Jaspreet Singh, J.

Heard Sri K.K. Sharma, learned Senior counsel for the petitioner along with Sri Sumit Pandey, learned counsel for the petitioner has joined through video conferencing and Sri Madhav Om holding brief of Sri Sameer Om, learned counsel for the respondents.

The petitioners have invoked the jurisdiction of this Court in terms of Section 11(6) of the Arbitration and Conciliation Act, 1996.

The submission of learned counsel for the petitioner is that an agreement was entered in between the parties regarding the management consulting to manage rural water supply project in Bundelkhand, Vindhya Region and quality affected areas in the State of Uttar Pradesh.

The said agreement amongst other clause contains a Dispute Resolution Mechanism in Clause 8.

At the first instance, the parties were required to settle their disputes amicably failing which they have the option of invoking the arbitration which was to be supervised in terms of the Arbitration and Conciliation Act, 1996.

The said clause further indicated that each of the parties would be entitled to appoint their nominee Arbitrator and the said two nominee Arbitrators would appoint the Presiding Arbitrator.

The record further indicates that the petitioner by means of a notice dated 11.08.2023 had invoked the arbitration clause and also nominated their nominee Arbitrator Hon'ble Justice Kailash Gambhir, a retire Judge of the Delhi High Court. In terms of the Arbitration Clause and the respondents were also required to nominate their Arbitrator.

Sri Madhav Om, learned counsel for the respondent submits that by means of letter dated 28.09.2023 communicated to the petitioner, the respondents have also appointed their nominee arbitrator Hon'ble Justice Rakesh Srivastava, a retired Judge of this Court.

Apparently, once the two parties exercising their party autonomy have already appointed their nominee Arbitrators, accordingly, the instant petition at this stage is not maintainable, inasmuch as, it is for the two party nominated Arbitrators to resolve and arrive at the appointment of a Presiding Arbitrator.

In view of the aforesaid, the present petition at this stage is not maintainable and is accordingly ***dismissed***.

Order Date :- 1.11.2023

Asheesh