

IN THE HIGH COURT OF JUDICATURE AT PATNA

Request Case No.18 of 2014

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Jaipati Narayan Sinha, son of Akhila Nand Sinha, D-63, P.C.Colony, Kankarbagh,
P.O.Lohia Nagar, Patna.

.... Petitioner

Versus

1. The General Manager, East Central Railway, Hazipur
2. The Divisional Manager, Danapur, Patna.
3. The Senior Divisional Engineer (1), Danapur, Dist. Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Krishna Mohan Mishra, Advocate
For the Resp. Railway : Mr. Anil Kumar Sinha, Advocate
Mr. Abhimanyu Deo, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 08-04-2016

Heard learned counsel for the petitioner and learned counsel for
the Respondent Railway.

2. The present Request Case has been filed for appointment of
an Arbitrator to resolve, settle and decide the disputes and differences which
have arisen between the petitioner and the respondents in terms of
Agreement No. W-7/16/Misc./PNBE (L)/Open/2013-14 dated 28.08.2013
executed by the then Senior Divisional Engineer-1, East Central Railway,
Danapur (Respondent No. 3) for and on behalf of the Union of India and the
petitioner.

3. According to the petitioner, pursuant to a tender invited by
the Respondents for repair of Cess, Yard drain, Ballast retaining wall, various
P. way Boards and other P-way ancillary works in Patna-Gaya section under
AEN/L/PNBE, the petitioner participated in the tender and was awarded the
contract for a total value of Rs. 1,96,68,446.57 and for which an agreement



dated 20.08.2013 was executed between the parties. The work could not commence in full earnest as the Respondents did not supply the drawings and instructions, despite which the petitioner completed part of the work and for which part payment was also received. The progress of the work was impeded for want of full drawings and proper instruction with regard to the entire work. The parties entered into correspondence, but ultimately the difficulties faced by the petitioner could not be resolved, all of which led to an arbitrable dispute between the parties. The petitioner invoked the arbitration clause under the agreement by serving legal notice dated 10.07.2014 (Annexure-7) requesting the General Manager, East Central Railway, Hazipur (Respondent No. 1) to appoint an Arbitrator for settlement of the claims and disputes of the petitioner.

4. Learned counsel for the Respondent Railway on the other hand, refers to para 19 of the counter affidavit, pointing out that a panel of Arbitrators constituted of Railway Officers is available and expressed his no objection for appointment of an Arbitrator from the Railway's panel.

5. Having heard the parties and on consideration of the materials on record, this Court is satisfied that an arbitrable dispute has arisen between the parties. The agreement in question adopts the General Conditions of Contract, Clause 64 whereof contains the arbitration clause. The petitioner has duly invoked such arbitration clause in terms of his legal notice dated 10.07.2014 which has not been responded to within the statutorily stipulated time and thereafter the present Request Case has been filed.

6. In view of the submissions made by learned counsel for the

petitioner, this Court accordingly appoints Hon’ble Mr. Justice Radha Mohan Prasad, a retired Judge of this Court residing at Mathura Prasad Sinha Road, Near Nagababa Thakurbari, Kadamkuan, Patna-800003 as the sole Arbitrator with respect to the disputes between the parties in accordance with the provisions of the Act.

7. The petitioner must approach the said Arbitrator within one month along with a certified copy of this order and file his statement of claims, whereupon the said Arbitrator will proceed with the adjudication expeditiously. The fees of the Arbitrator shall abide by the Fourth Schedule of the Act, and shall be borne equally by the parties.

8. With the aforesaid directions, this Request Case is disposed of.

(Vikash Jain, J)

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