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

+ ARB.P. 419/2016

EMERSON PROCESS MANAGEMENT INDIA
PRIVATE LIMITED

..... Petitioner

Through: Mr Abhinav Hansaria, Mr Archit
Virmani and Mr Tushar A. John,
Advocates.

versus

FERNAS CONSTRUCTION INDIA PVT LTD Respondent

Through: Mr K.C. Dubey, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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17.08.2016

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'). It is stated that the respondent entered into a contract with ONGC Petro Additions Limited for executing certain works at the Dahej Petrochemical Complex at Dahej, Gujarat.

2. In connection with the aforesaid project, the respondent invited bids for supply of Radar Level Transmitters SMART HART + FF TYPE for Offsite Utilities Project. It is stated that the petitioner was successful in bidding for the aforesaid supply and a Purchase Order being Purchase Order No. 43002489 dated 06.06.2013 was issued by the respondent.

3. The petitioner states that certain disputes have arisen in connection with the aforesaid Purchase Order; consequently, the petitioner invoked the arbitration clause by a letter dated 14.05.2016. However, the Arbitrator has not been appointed as yet.

4. Admittedly, the disputes between the parties arising out of or in connection with the aforementioned Purchase Order are to be resolved through Arbitration. The relevant arbitration clause reads as under:-

"33.0 ARBITRATION

33.01. In the event of any dispute or difference of opinion between the Parties arising out of or in connection with the PURCHASE ORDER or with regard to performance of any obligation hereunder by either Party, the Parties hereto shall use their best efforts to settle such disputes or differences of opinion amicably by mutual negotiation. Should the agreement not be reached, such dispute shall be referred to the Sole Arbitrator who shall be appointed with mutual consent of the parties. The arbitration shall be governed in accordance with the provisions of Arbitration and Conciliation Act, 1996 or any applicable law on arbitration that may be in force then, and any amendments made thereto. The decision of such arbitration shall be final and binding on both Parties. Venue of such arbitration shall be at New Delhi only. The Language of the arbitration proceeding shall be in English."

5. Accordingly, it is directed that an Arbitrator be appointed under the Rules of the Delhi International Arbitration Centre (DAC). The representatives of the parties shall appear before the co-ordinator, DAC on

26.09.2016 at 11:00 a.m. The arbitration shall be conducted under the aegis of DAC and in accordance with its Rules.

6. The petition is disposed of.

AUGUST 17, 2016
RK

VIBHU BAKHRU, J