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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ ARB.P. 1/2016 and IA 31/2016
AEROSTRAL AIR SERVICES (P) LTD Petitioner
Through: Mr. Sandeep Bajaj and Mr. Harsh
Vardhan, Advs.
versus

SOUTH DELHI MUNICIPAL CORPORATION Respondent
Through: Mrs. Biji Rajesh for Mr. Gaurang
Kanth, Adv.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI
ORDER
% **04.01.2016**

I.A. 31/2016 (exemption)

Allowed, subject to all just exceptions.

The application stands disposed off.

ARB.P. 1/2016

Notice. Ms. Biji Rajesh, Advocate accepts notice for respondent.

With the consent of the learned counsel for the parties, the petition is taken up for disposal.

The present petition seeks appointment of an arbitrator.

It is not in dispute that the letter dated 22.08.2015 invoking arbitration proceedings was received by the respondent on 25.08.2015. No arbitrator has been appointed till date.

The learned counsel for the respondent submits that they are in the process of appointing a former Principal Secretary of the Government of NCT of Delhi.

The learned counsel for the petitioner submits that the respondent has lost its right to appoint an arbitrator in terms of Section 11(6) of the Arbitration and Conciliation Act.

Since the respondent has failed to appoint an arbitrator despite a lapse of 30 days after invocation of the arbitration clause, in terms of dicta in ***Deep Trading Co. Vs. Indian Oil Corpn. (2013) 4 SCC 35***, the respondent has forfeited its right to appoint an Arbitrator.

In the circumstances, Justice (Retd.) Vikramajit Sen, (Mobile No.9560933366), a former Judge of the Supreme Court of India, is appointed as the Arbitrator. The fees of the arbitration shall be fixed by the learned Arbitrator himself before whom the parties shall appear on 18.01.2016.

A copy of this order be sent to learned Arbitrator.

The petition stands disposed off in the above terms.

NAJMI WAZIRI, J

JANUARY 04, 2016

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