

IN THE HIGH COURT OF JUDICATURE AT PATNA
Request Case No 18 of 2017

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M/s Land & Port Construction Private Limited, a Company registered under the Companies Act, 1956 having its registered office at Mohalla – Bramhpura Mehadi Hasan Road PO MIT & PS Bramhpura Distt – Muzaffarpur through its Managing Director Naiyar Azam, son of Safi Ahmad, resident of Mehadi Hasan Road, Mohalla – Bramhpura, PO MIT & PS – Bramhapura, District - Muzaffarpur

.... Petitioner/s

Versus

- 1 The Union of India through the General Manager, EC Railway at & PO – Hajipur, District – Vaishali
- 2 The Dy Chief Engineer/CON/SHC-II, At & PO Samastipur, District - Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Nand Kishore Singh,
Mr Jitendra Kumar, Advocates

For the Respondent/s : Mr Bijoy Kumar Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 28-04-2017

Having heard learned counsel for the parties, it is seen that Clause 64 of the Agreement contemplates raising of a demand by way of a claim and thereafter waiting for a period of 180 days for decision on the claim by the competent authority and, thereafter, waiting for a period of 120 days if the claim is not heeded then seeking appointment of an Arbitrator under Clause 64 (1).

2 In this case, the petitioner has raised the claim under Clauses 63 and 64 and submitted a notice through his counsel on 28.12.2016 and, therefore, it is a case where the requirement of Clause 64 has not been complied with.



3 The application is premature and, therefore, no indulgence can be granted and is dismissed as such with liberty to the petitioner to raise the claim and seek the appointment of Arbitral Tribunal in accordance with law.

(Rajendra Menon, CJ)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.05.2017
Transmission Date	NA

