

IN THE HIGH COURT OF JUDICATURE AT PATNA
Request Case No.149 of 2017

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N I I T Limited, a company incorporated under the provisions of the Companies Act, 1956 having its registered office at 8, Balaji Estate, First Floor, Guru Ravidass Marg, Kalkaji, New Delhi through its authorized signatory

... .. Petitioner/s

Versus

The Bihar State Electronics Development Corporation Limited through its Managing Director, Beltron Bhawan, Shastri Nagar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar, Adv. Mr. Bikas Kr. Jha, Adv.
For the Respondent/s	:	Mr. Girijish Kumar, Adv.
For BELTRON		Mr. Girijesh Kumar, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 24-11-2017

This application has been filed for constitution of an Arbitral Tribunal in connection with execution of an agreement entered into between the parties in the matter of providing computer education and other computer services and in the execution certain disputes have arisen. The jurisdiction of this Court under Section 11 of the Arbitration and Conciliation Act, 1996 has been invoked. Article 21 of the agreement in question contemplates a provision for dispute's settlement and it is indicated that the dispute shall be resolved by constitution of an Arbitral Tribunal under the Act.



Respondents have filed an objection and have tried to indicate that the claim is stale, beyond period of limitation and, therefore, liable to be rejected. However, learned counsel appearing for the petitioner invites my attention to the law laid down by this Court in the case of EMM ENN Associates Vs. Commander Works Engineer And Others, (2016) 13 SCC 61 and also tried to demonstrate that the issue is not stale and it can always be decided by the arbitrator.

Keeping in view the facts and circumstances of the case and the law laid down in the case of EMM ENN ASSOCIATES (supra), I am of the considered view that merely on account of the fact that objections have been raised with regard to delay in the claim, the prayer for constitution of an Arbitral Tribunal cannot be rejected. The question of granting relief and delay, if any, in raising the claim is a matter which can be considered and decided by the Arbitrator in accordance with law and, therefore, on this ground the prayer made in this case cannot be rejected.

Keeping in view the aforesaid and finding there to be a dispute which has to be resolved by the Arbitrator, this application is allowed.



Mr. Dinesh Kumar Sharma, (at present residing at Flat No.1-104, Shiva Apartment, I.A.S. Colony, Bailey Road, Rupaspur, Patna) retired District and Sessions Judge, is appointed as the Arbitrator to resolve the issue.

(Rajendra Menon, CJ)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	8.12.2017
Transmission Date	

