

IN THE HIGH COURT OF JUDICATURE AT PATNA

Request Case No.12 of 2016

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KEC-DELCO-VARAHA-JV through its Authorized Representative Shri Amarjeet Kumar Singh, son of Shri Hare Ram Singh, Resident of 1st Floor Building, 9-A, DLF, Cyber City, Phase-III, Gurgaon- 122002

.... Petitioner/s

Versus

1. The General Manager, East Central Railways, Hajipur
2. The Chief Administrative Officer/Con./North, ECR, Mahendrughat, Patna
3. The Chief Engineer/Con./North, ECR, Mahendrughat, Patna
4. The Deputy Chief Engineer/Con./IV, ECR, Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Advocate Mr. Vikas Kumar, Advocate
For the Respondent/s	:	Mr. D.K. Sinha, Sr. Advocate Mr. Kumar Manish, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 10-05-2017

Seeking constitution of an Arbitral Tribunal in the matter of resolution of the dispute in question, this application has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996.

2. On 09.11.2016 in Request Case No. 10 of 2016 (M/s Param Enterprises (P) Ltd. Vs. The East Central Railway and others) a detailed order was passed wherein in an identical case an Arbitral Tribunal was constituted. When this case of Param Enterprises (supra) came up for consideration on 26.04.2017, it was argued that the order passed on 09.11.2016 has been challenged before the Supreme Court and the same is pending in a S.L.P. and, therefore, the



matter be adjourned. Taking note of the aforesaid prayer made, this application is being adjourned from time to time. It was adjourned on various dates and finally when the matter was taken up on 22.03.2017, serious objection was raised by the respondents to say that the S.L.P. has been filed with various defects and merely because the S.L.P. is pending, the matter cannot be adjourned. Even then the case was adjourned for four weeks and the Railway Administration was granted time to prosecute the S.L.P. When the matter was take up on 19.04.2017, again it was pointed out that the S.L.P. is pending and a short adjournment be granted. As a matter of last indulgence, adjournment was granted and when the matter is taken up today, again, it is stated that the S.L.P. is pending.

3. Learned counsel for the applicant raised strong objection to say that the S.L.P. is pending since December, 2016. It is a defectively filed S.L.P. and, therefore, on this ground now the matter need not be adjourned.

4. We find that in the case of Param Enterprises (P) Ltd. (supra) after orders were passed allowing the application on 19.11.2016 when similar prayer was made, this Bench on 26.04.2017 rejected the said prayer and appointed an Arbitrator.

5. Taking note of all these factors, in the light of the order passed on 09.11.2016 in the case of Param Enterprises (P) Ltd.



(supra) there is no reason for rejecting the prayer of the petitioner. For the same grounds and reasons as are contained in the order passed on 09.11.2016 in the case of Param Enterprises (P) Ltd. (supra), this application is allowed. Hon’ble Justice Sri Shashank Kumar Singh, a retired Judge of this Court is appointed as an Arbitrator for resolution of the dispute between the parties.

6. The application is allowed and disposed of with the aforesaid.

(Rajendra Menon, CJ)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	15.05.2017
Transmission Date	

