

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Arbitration Application No. 25 of 2010**

M/s Mahendra Singh Chhabra, through its proprietor Shri Mahendra Singh Chhabra, S/o Gurucharan Singh Chhabra, Opp. Hero Honda Work Shop, Jarhabhata, District Bilaspur, Chhattisgarh

---- Petitioner**versus**

National Thermal Power Corporation Ltd., Sipat Super Thermal Power Project, Post Office : SIPAT, District Bilaspur, having its registered office at NTPC Bhawan, Core-7, Scope Complex, Seven Institutional Area, Lodi Road, New Delhi-110003

---- Respondent

For Petitioner	:	Smt. Renu Kochar, Advocate
For Respondent	:	Shri B.D. Guru, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice**Order on Board****02/01/2017**

1. This is an application filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 by the Petitioner for appointment of Arbitrator.
2. The undisputed facts are that the Petitioner was awarded a contract for transportation of ash bricks from NTPC, Korba to NTPC, Sipat by the National Thermal Power Corporation Limited. The contract of the agreement contains an arbitration clause (Clause 56) wherein all disputes arising out of the contract are referred for arbitration. According to the Petitioner, disputes arose between it and the NTPC and the Petitioner claims that it has transported 50 lacs bricks whereas according to the NTPC, it has transported less than 22 lacs. This is a dispute arising out of the terms of the contract. The only

objection raised is that the Petitioner never made a request for appointment of Arbitrator. Even if that be correct, now when this application is pending for more than 6 years, it would be unjust and unfair to dispose of this application by directing the Petitioner to approach the Respondent for appointment of Arbitrator. Under the amended provisions of the Arbitration and Conciliation Act, Arbitrator has to be independent person and an employee cannot be appointed as Arbitrator.

3. Therefore, invoking the jurisdiction under Section 11 (6) of the Arbitration and Conciliation Act, 1996, I hereby appoint Shri Justice R.L. Jhanwar, residing at 48 Friends Colony, Behind Nutan Colony, Sarkanda, Bilaspur, a retired Judge of High Court of Chhattisgarh, as Arbitrator in the case.
4. The Petitioner and the Respondent may file their claim/counter-claim before the aforesaid Arbitrator within a period of four weeks from today who is requested to dispose of the matter within the time prescribed in the Arbitration and Conciliation Act, 1996, as amended.
5. The parties are directed to appear before the Arbitrator on 30.01.2017.
6. Registry is directed to send a copy of this order to Shri Justice R.L. Jhanwar so as to reach within two weeks from today.
7. The arbitration application stands disposed of.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE