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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ARB.P. 284/2017

LUMAN AUTOMOTIVE SYSTEMS PVT. LTD..... Petitioner
Through Mr.Gurvinder Singh, Adv.

versus

CENTRAL ORDNANCE DEPOT & ORS..... Respondent
Through Mr.Jaswinder Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
20.11.2017

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1. This petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996(hereinafter referred to as the Act) seeking appointment of an Arbitrator to adjudicate the disputes between the parties.
2. The case of the petitioner is that respondent No. 1 awarded a supply order dated 17.11.2010 for supply of Field Coil Assembly quantity 2331 subsequent to a tender enquiry dated 05.10.2010.
3. It is further urged that Clause 31 of the Contract between the parties contains an arbitration clause that provides that in case of a dispute or difference arising, the same will be referred to the sole arbitration of the Secretary Ministry of Defence, Department of Defence production and Supplies or to some other person appointed by him.
4. Disputes having arisen between the parties, the petitioner on 15.10.2014 invoked the arbitration clause and sent a legal notice.
5. I have heard learned counsel for the parties.

Learned counsel for the petitioner submits that the nominated Arbitrator as per the agreement, namely, Secretary Ministry of Defence, Department of

Defence production and Supplies is ineligible to be appointed as an arbitrator in view of the provisions of Section 12(5) of the Act read with Schedule 7. He further submits that in view of the judgment of the Supreme Court in the case of **TRF. v. ENERGO ENGINEERING PROJECTS LTD. & ANR. 2017(7) SCALE 162**, even a nominee of an ineligible arbitrator is not allowed. Learned counsel for the respondent submits that he is unable to refute the above submission.

6. It is manifest that the nominated arbitrator in the arbitration agreement is ineligible to act as an arbitrator in view Section 12(5) read with 7th Schedule of the Arbitration Act.

7. The Supreme Court in the **TRF. v. ENERGO ENGINEERING PROJECTS LTD. & ANR. (supra)** has stated that once an arbitrator has become ineligible by operation of law, he cannot nominate another person as an arbitrator.

8. The nominated Arbitrator in the arbitration agreement is ineligible and he also cannot nominate an arbitrator.

9. Accordingly, I appoint Sh. Rishi Manchanda, Advocate (Mobile No. 9911681178) as the sole Arbitrator to adjudicate the dispute between the parties. He will fix his fees in accordance with the Fourth Schedule of the Act. He will also file necessary declaration as per Section 12(1) of the Act.

10. A copy of this order be sent to the learned Arbitrator.

11. The petition stands disposed of.

JAYANT NATH, J

NOVEMBER 20, 2017

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