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

+ ARB.P. 300/2017

HINDUSTAN PREFAB LTD . A GOVT OF
INDIA ENTERPRISE

..... Petitioner

Through Mr.Parveen Kumar Mehdiratta, Adv.

versus

CENTRAL RESERVE POLICE FORCE Respondent
Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

30.08.2017

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1. This petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as Act) seeking appointment of an arbitrator for adjudication of the disputes between the parties.
2. The respondent have been served by ordinary process and speed post also but have chosen not to appear. The matter was fixed on 22.08.2017 when none appeared for the respondent. In the interest of justice, the matter was adjourned for today. Today also none has appeared for the respondent. The respondent are proceeded ex parte.
3. On 14.06.2012, the respondent are said to have placed on the petitioner an order for construction of 39 prefabricated PUF Panel Sandwich Shelters at 13 locations in the State of Chhatisgarh. Disputes having arisen between the parties, the petitioner sent a notice on 30.03.2017 seeking

payment of its dues or in the alternative seeking appointment of a sole arbitrator. The respondent have on 05.05.2017 replied to the said legal notice justifying its actions. The reply states that the liquidated damages have been imposed as per rules and hence, there is no point of dispute or difference between the parties. Though the copy of the reply is not on record, learned counsel for the petitioner has handed over the same in court. The Registry may scan the same and place the same on record.

4. In the Agreement there exists an arbitration clause between the parties, namely, clause No. 2.4. As per the said Clause, in case of any dispute, the same are to be referred to the sole arbitration of an officer of the Ministry of law, appointed by Director General, CRPF.

5. In the present case, the petitioner has already invoked the arbitration clause on 30.03.2017 which notice has been duly received by the respondent as is evident from the reply to the said letter dated 05.05.2017 sent by the respondent. This petition was filed on 03.05.2017.

6. Keeping in view the judgment of the Supreme Court in the case of ***Datar Switchgears Ltd. vs. TATA Finance Ltd.& Anr., (2000) 8 SCC 151***, it is manifest that the respondent had an opportunity to appoint an arbitrator in terms of the arbitration clause within 30 days of the receipt of the notice from the petitioner dated 30.03.2017 or till the date of filing of the present petition.

7. Having failed to do the needful, the respondent have forfeited their right to appoint the arbitrator under the arbitration clause.

8. Accordingly, I appoint Shri P.C. Ranga, Retd. Additional District Judge (Mobile No.9868905228) as the Sole Arbitrator to adjudicate the disputes between the parties. The arbitration shall take place under the aegis

of the Delhi International Arbitration Centre (DIAC). A copy of this order be sent to DIAC.

9. Petition stands disposed of

10. A copy of this order be given dasti to the learned counsel for the petitioner.

JAYANT NATH, J

AUGUST 30, 2017

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