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

+ O.M.P. (T) (COMM.) 44/2017

DHOOT DEVELOPERS PVT.LTD (JV) M/S BENGAL
SILVER SPRING PROJECT LTD Petitioner

Through: Mr S. K. Maniktala, Mr Vinod Kumar
and Mr Jatin, Advocates.

versus

UNION OF INDIA & ANR. Respondents

Through: Mr Ripu Daman Bhardwaj, CGSC
with Mr T. P. Singh and Mr Sahaj
Garg, Advocates for R-1 & 2 with Mr
Mahesh Kumar (Director, Contract)
DG-MAR

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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26.05.2017

1. The petitioner has filed the present petition under Section 15(2) of the Arbitration and Conciliation Act, 1996, *inter alia*, praying that a sole arbitrator be appointed to fill the vacancy caused by the resignation of the arbitrator (Shri S. K. Gupta). The arbitrator was appointed to adjudicate the disputes that had arise between the parties in connection with the work order dated 23.07.2010 for construction of married accommodation for Army at Ferozepur, which was awarded to the petitioner by letter of award dated 15.07.2010.

2. The petitioner had filed a petition (OMP (T) No.2/2016), *inter alia*, praying that the mandate of arbitrator appointed by the respondent be

terminated as the arbitrator had failed to act without undue delay. The said petition was disposed of by an order dated 16.12.2016 on the statement made by the learned counsel for the respondent that “*an independent person would be appointed in conformity with the provisions of the Arbitration and Conciliation Act, 1996 as amended by arbitration and Conciliation (Amendment Act, 2015)*”. The court had further directed that provisions of Schedule 5 and Schedule 7 of the Act would be duly taken into account while appointing an independent Arbitrator.

3. It is stated that pursuant to the aforesaid order dated 16.12.2016, the respondent appointed Shri S. K. Gupta (ADG, panel of arbitrators) as the Sole Arbitrator. The petitioner had certain objections to the said appointment; according to the petitioner, the said arbitrator was not an independent arbitrator and his appointment did not conform to Section 12(1) read with Schedule 5 and Section 12(5) read with Schedule 7 of the Act. In view of the said objection, the arbitrator resigned on 06.04.2017.

4. Almost two months have passed since Shri S.K. Gupta has resigned, however the respondent has not appointed an arbitrator in his place as yet.

5. The learned counsel for the respondent states that they are still awaiting a legal opinion to proceed further for appointing an arbitrator.

6. In the given circumstances, the Court is satisfied that an independent arbitrator is required to be appointed in this case. Accordingly, it is directed that an arbitrator be appointed under the Rules of Delhi International Arbitration Centre (DIAC). The parties are directed to appear before the Co-ordinator, DIAC on 04.07.2017 at 11:00 AM. The arbitration shall be

conducted under the aegis of DIAC and in accordance with its Rules.

7. The petition is disposed of.

VIBHU BAKHRU, J

MAY 26, 2017

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