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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ ARB.P. 490/2017
REACON ENGINEERS (INDIA) PVT. LTD. Petitioner
Through Mr.M.K.Ghosh, Ms.Tina Garg, Advs.

versus

IRCON INTERNATIONAL LIMITED, THROUGH ITS
MANAGING DIRECTOR, Respondent
Through Mr.Sonal Kumar Singh, Ms.Swati Saigal,
Mr.Rajat Dasgupta, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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12.12.2017

This petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') has been filed by the petitioner seeking appointment of a Sole Arbitrator for adjudication of the disputes that have arisen between the parties in relation to the agreement dated 9th August, 2010 for construction of Indoor Stadium at Gholsapur (Behala) on Sealadh Division of Eastern Railway - Pile Foundation, R.C.C. Structure work, Brick Work, Plastering, Sanitary and Plumbing works and fire Fighting works. The said agreement contains an arbitration clause between the parties. The petitioner invoked the same vide its notice dated 25th January, 2016 and the reminder dated 23rd March, 2016. As the respondent did not appoint an Arbitrator, the present petition was filed seeking appointment of a Sole Arbitrator.

Upon issuance of notice on the petition, the respondent has

filed its reply to the same. In the reply, a plea has been taken that the petitioner had executed 'No Claim Certificate' dated 29th March, 2014 and in view thereof, no Arbitrator can be appointed as the arbitration agreement stands discharged.

I am unable to accept the above argument of the respondent. Whether the 'No Claim Certificate' discharges the arbitration agreement or not itself is a question to be decided by the Arbitral Tribunal. In terms of Section 11 (6A) of the Act, this Court is to confine its examination only to the existence of an arbitration agreement between the parties. The same being not disputed, I see no hindrance in appointment of a Sole Arbitrator for adjudication of the disputes.

Counsel for the respondent has handed over a list of retired officers empanelled as Arbitrators by the respondent. Counsel for the petitioner, on instructions, submits that Mr. Pradeep Kumar Gupta, Retired Additional Director General (Special), CPWD may be appointed as a Sole Arbitrator from the list provided.

In view of the above, I hereby appoint **Mr. Pradeep Kumar Gupta**, Retired Additional Director General (Special), CPWD, T-17, Green Park Extn, New Delhi-110016, Mobile- 9971491696 as the Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the above agreement. The Sole Arbitrator shall make a disclosure in terms of Section 12 of the Act before proceeding with the arbitration.

This order is being passed without prejudice to all submissions and contentions of respective parties which would remain open to be

taken before the Arbitral Tribunal.

The petition is allowed in the above terms, with no orders as to costs.

Dasti.

NAVIN CHAWLA, J

DECEMBER 12, 2017
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