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

+ ARB.P. 75/2017

SHRI J P GUPTA

..... Petitioner

Through: Mr. B M Sehgal, Advocate

versus

GOVT.OF NCT OF DELHI & ANR.

..... Respondents

Through: Ms. Sweety Singh, Advocate for
R-1 and 2

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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20.04.2017

1. The petitioner has filed the present petition under Section 11 of the Arbitration & Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying that an arbitrator be appointed to adjudicate the disputes between the parties, which have arisen in connection with the contract for "*EOR to 500 bedded DDUH Hari Nagar, New Delhi, SH: Renovation of 2nd Floor Doctor Hostel nurse room and renovation of OPD Blocks Doctors room and OPD gallery.*"

2. In view of the disputes that had arisen between the parties, the petitioner served a notice dated 27.1.2016 on the Superintendent Engineer (Civil Health), PWD. However, the petitioner states that the claims made by the petitioner were not addressed and no decision in that regard was rendered.

3. Accordingly, the petitioner escalated the matter and sent

another notice dated 10.03.2016 to the Chief Engineer of the respondent. However, the Chief Engineer also did not decide the disputes/claims raised by the petitioner.

4. Accordingly, the petitioner sent a notice dated 25.05.2016 to the respondent invoking the arbitration clause calling upon the respondent to appoint an arbitrator.

5. Admittedly, the arbitrator has not been appointed as yet. The learned counsel appearing for the respondent has opposed the present petition principally on two grounds. First, she submits that the notices referred were issued by an advocate and the signatures of the petitioner were not as per the records of the respondent and therefore, the notice under the contract cannot be considered. Second, she submits that if for any reason, it is not possible for the arbitrator appointed by the Chief Engineer, CPWD to act as an arbitrator, the matter cannot be referred to arbitration.

6. In so far as the first submission is concerned, the same is inconsiderable. The notices were served by the petitioner through his Advocate; the notices clearly indicated that they are for and on behalf of the petitioner. Further, there is nothing on record to indicate that the respondent has raised any objection at the material time that the notices were invalid on account of the same being sent by an Advocate.

7. In so far as the second submission is concerned, the appointing authority has not appointed an arbitrator and therefore, the question/possibility of a person appointed by him, to act as an arbitrator

does not arise. The said clause would not preclude the petitioner from approaching this Court under Section 11 and exercising a statutory remedy to have an arbitrator appointed by the Court.

8. In view of the above, it is directed that an arbitrator be appointed under the Rules of Delhi International Arbitration Centre (DIAC). The parties shall appear before the Coordinator DIAC on 22.05.2017 at 11.00 A.M. The arbitration shall be conducted under the aegis of DIAC and in accordance with its rules.

9. The petition is disposed of.

10. *Dasti.*

VIBHU BAKHRU, J

APRIL 20, 2017
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