

IN THE HIGH COURT OF JUDICATURE AT PATNA

Request Case No.129 of 2018

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M/s Muzaffarpur Vidyut Vitran Limited, having its registered office at 513 A, 6th Floor, Kohinoor City Mall Kirol Marg Off L.B.S. Marg Kurla (West) Mumbai 400070 through its authorised representative namely Mohammed Tariq Hussain Khan, aged about 45 Years, Son of Late A. Hussain, resident of Flat No. - 102, Aditya Apartment Bariya Chowk, P.S.- Ahiyapur, District- Muzaffarpur, State- Bihar.

.... Petitioner/s

Versus

1. North Bihar Power Distribution Company Limited, Having its Registered Office at Vidyut Bhawan, Bailey Road, Patna- 800021, Bihar through its Managing Director.
2. Essel Adi Smart Grid Solutions Ltd. Having its Registered Office at 513 A, 6th Floor, Kohinoor City Mall Kirol Marg off L.B.S. Marg, Kurla (West) Mumbai 400070 through its Authorised Representative.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Senior Advocate Mr. Shivam Singh, Advocate Ms. Ritwika Nanda, Advocate Mr. Arun Kumar, Advocate
For Respondent No.1	:	Mr. Lalit Kishore, Senior Advocate Mr. Anand Ojha, Advocate Mr. Kumar Manish, Advocate
For Respondent No.2	:	Mr. Navjot Yesu, Advocate Mr. Aditya Abhishek, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 03-08-2018

In the execution of an agreement for the purpose of



distributing franchise and agreement known as D.F. Agreement was entered into. Clauses 17.2.5 and 17.2.6 of the agreement reads as under :

“ 17.2.5. – Any dispute arising out of, in connection with or with respect to this Agreement, the subject matter hereof, the performance or nonperformance of any obligation hereunder, which cannot be resolved by negotiation between the Parties and the Dispute Resolution procedure as stated in the foregoing Articles, shall be exclusively submitted to arbitration at the request of either party upon written notice to that effect to the other party and The proceedings shall be conducted subject to the provisions of the Arbitration and conciliation Act, 1996 (the Arbitration Act) by a panel consisting of three arbitrators.

17.2.6. – While submitting the dispute or difference to arbitration in accordance with this Article the Party so submitting shall, in its notice, specify the name of one arbitrator appointed by it.



Within thirty (30) days of the receipt of notice, the other Party shall appoint an arbitrator. The third arbitrator (who will act as the chairman) shall be nominated by the two arbitrators appointed as aforesaid or, failing such nomination within thirty (30) days of the appointment of the second arbitrator, shall be appointed in accordance with the Arbitration and Conciliation Act, 1996.”

Seeking resolution of the dispute under the aforesaid arbitration agreement, this application has been filed even though on notice being issued the respondents have filed a counter affidavit, on a perusal of the counter affidavit, particularly paragraph-8 thereof, it is clear that the respondents have resolved to appoint Hon’ble Mr. Justice V.N. Sinha, a retired Judge of this Court as a nominee for which his consent has already been taken. Learned counsel for the applicant submits that they have nominated Hon’ble Mr. Justice Samarendra Pratap Singh as their nominee.

Keeping in view the aforesaid, the nominations made by both the applicant and the respondents, as are indicated hereinabove are approved now in terms of Clause 17.2.6 of the agreement, both the Arbitrators are requested to appoint a third



arbitrator who shall act as the Chairman and thereafter the Tribunal
may proceed with the matter in accordance with law.

With the aforesaid, this application is disposed of.

(Rajendra Menon, CJ)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06-08-2018
Transmission Date	

