

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Jurisdiction Case No.934 of 2018**

**In**  
**Request Case No.17 of 2017**

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S. P. Singla Construction Arvind Techno Engineers J V Between S P Singla Construction Pvt. Ltd. And Arvind Techno Engineers Pvt. Ltd. through its Authorised Signatory Shri Parveer Singh Rathore S/o Late Mehar Singh, aged about 54 years, having office at Kothi No.47, Sector-9, P.S. Panchkula (Haryana)-134113.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Railways, having office at Rail Bhawan, Rafi Marg, New Delhi-110001.
2. General Manager, East Central Railway, Hajipur having office at Mahendrughat, Patna- 800 004.
3. Chief Engineer Admn. Officer (Const.), East Central Railway, Hajipur having office at Mahendrughat, Patna-800004.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Satyabir Bharti, Advocate<br>Mr. Anirudh Wadhwa, Advocate |
| For the Respondent/s | : | Ms. Aparna Arun, Advocate<br>Mrs. Nivedita Nirvikar, Advocate |

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**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**ORAL ORDER**

2      11-07-2018                      This      application      has      been      filed      for

clarification/modification to an order passed by this Court in exercise of its jurisdiction under Section 11 of the Arbitration & Conciliation Act, 1996 on 26.07.2017 in Request Case No.17 of 2017.

Before clarifying or considering the prayer for modification, it would be appropriate to take note of certain facts which would be relevant. In the execution of an agreement, as a dispute arose between the parties, the applicant herein, namely M/s. S.P. Singla Construction Arvind Techno Engineers,



invoked the arbitration clause as contained under Clause 64.7 and appointed an arbitrator on their behalf being Hon'ble Mr. Justice (Rtd.) Ajit Prakash Shah and thereafter, in accordance to the arbitration clause, they requested the Railway Administration to appoint an arbitrator on their behalf and it was for the both the arbitrators to nominate a Presiding Arbitrator to proceed with the dispute for adjudication.

Admittedly, under the arbitration clause, the arbitration contemplated is by a three member arbitration tribunal. The present application, which was subject matter of adjudication in Request Case No.17 of 2017, was filed by the applicant herein, namely the contractor, with a grievance that even though they have appointed an arbitrator on their behalf, the Railway Administration was not appointing its nominee arbitrator and thereafter the petitioner invoked the jurisdiction of this Court for appointment of an arbitrator on behalf of the Railway Administration.

Having heard learned counsel for the parties and taking note of the orders passed on 26.07.2017 in Request Case No.17 of 2017 it is seen that Hon'ble Mr. Justice B.P.Singh, Former Judge of the Supreme Court, was appointed as an arbitrator to act as a nominee on behalf of the Railway



Administration. While doing so, this Court did not, due to error which is apparent on the face of record, clarify this position that Hon'ble Mr. Justice B.P.Singh, Former Judge of the Supreme Court, is being appointed as an Arbitrator in accordance to the arbitration clause as a nominee on behalf of the Railway Administration and the Court exercised its jurisdiction as the Railway Administration did not respond to the request of the petitioner to appoint an arbitrator to act as a nominee on their behalf. Having done so, this Court should have further requested the nominee arbitrator appointed on behalf of the Contractor and the Railway Administration to appoint a Presiding Arbitrator of their choice or this Court should have passed appropriate orders in this regard as per law, but nothing was done.

Now, from the proceedings that have come on record, I find that both the nominated Arbitrators, namely Hon'ble Mr. Justice B.P.Singh, Former Judge of the Supreme Court, and Hon'ble Mr. Justice (Rtd.) A. P. Shah, have nominated a Presiding Arbitrator and the matter is pending before the Arbitration Tribunal. That being so, this Court, now, is only required to approve the proceedings being followed and the arbitration tribunal, so constituted, which has held its proceedings on 20<sup>th</sup> February, 2018 to proceed in the matter in



accordance with law. It is clarified that the Arbitrator appointed by this Court being Hon'ble Mr. Justice B. P. Singh, Former Judge of the Supreme Court, was an Arbitrator as the nominee by the Railway Administration and Hon'ble Mr. Justice K. S. P. Radhakrishnan having been appointed as the Presiding Officer of the Arbitration Tribunal constituted being in accordance to law, is now free to proceed with the matter.

With the aforesaid clarification, the matter stands disposed of.

**(Rajendra Menon, CJ)**

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