

IN THE HIGH COURT OF JUDICATURE AT PATNA
Request Case No.67 of 2018

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Bhaskar Bhardwaj, son of Ajit Narayan Singh, Proprietor of M/s Saran Filling Station, resident of Mona Pakadi, P.S. Chapra, District-Saran.

... .. Petitioner/s

Versus

1. M/s Bharat Petroleum Corporation Ltd. through Its Chairman & Managing Director, having its registered office at Bharat Bhawan, 4 & 6 Currimbhoy Road, Ballard Estate, P.B. No.688, Mumbai-400001.
2. The Area Manager, Bharat Petroleum Corporation Ltd. P.O.-Pakri, Via-Anisabad, Patna.
3. The Territory Manager (Retail), Bharat Petroleum Corporation Ltd. P.O.-Pakri, Via-Anisabad, Patna.
4. The Area Marketing Manager, Bharat Petroleum Corporation Ltd. P.O.-Pakri, Via-Anisabad, Patna.
5. The Regional Manager, Bharat Petroleum Corporation Ltd. Q.C.C. East Kolkata.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Neeraj Kumar Gupta, Advocate
For the Respondent/s	:	Mr. Siddhartha Prasad, Advocate
		Mr. Om Prakash Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT
Date : 04-04-2018

Seeking constitution of an arbitral tribunal for resolution of the dispute between the parties, this application has been filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act').

The petitioner is proprietor of M/s Saran Filling Station, a retail outlet of Bharat Petroleum Corporation Ltd. and carrying out the function of dealership in accordance to the agreement, Annexure-1 dated 24.01.2011. It seems that on certain complaint made, the outlet was inspected and finding irregularities, the dealership has been cancelled. Challenging cancellation of dealership, a dispute was raised



with the Company and the Company having failed to resolve the dispute amicably, the jurisdiction of this Court is invoked for constituting an arbitral tribunal in view of the dispute resolution mechanism contained in Clause 18 of the agreement in question. Clause 18 of the Agreement is an arbitration clause providing for resolution of dispute under the provisions of the Act .

Keeping in view the facts and circumstances of the case, the provision of Section 12(5) of the Act and the categories specified in Seventh Schedule, instead of appointing an arbitrator in accordance to the agreement entered between the parties which is now prohibited in the light of the law laid down by the Supreme Court in the case of **M/s. Voestalpine Schienen GMBH v. Delhi Metro Rail Corporation Ltd.**, AIR 2017 SC 939, this application is allowed and Justice Smt. Mridula Mishra, a retired Judge of this Court, is appointed as an arbitrator to resolve the dispute between the parties. The parties may appear before the arbitrator who shall proceed in the matter in accordance with law.

(Rajendra Menon, CJ)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.04.2018
Transmission Date	

