

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.873 of 2018

IN

REQ. CASE 2 of 2014

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M/s Kishan Freight Forwarders through its Proprietor Kishan Kumar Kukeraja son of Naryan Dar Kukeraja, office at 3A-57, W.E.A. Karol Bagh, Sat nagar, State- New Delhi-110005.

.... Petitioner

Versus

1. The Union of India through the Divisional Railway Commercial Manager, Samastipur,
2. The Chief Commercial Manager, Hajipur, East Central Railways, Hajipur, Bihar.
3. The Divisional Railway Manager (Commercial) East Central Railways, Hajipur.
4. The Senior Divisional Commercial Manager, Hajipur Division, East Central Railways, Hajipur.
5. The Deputy Chief Commercial Manager, Hajipur Division, East Central Railways, Hajipur.
6. The Chief Commercial Manager, East Central Railways, Hajipur, District- Vaishali, Bihar.
7. The Assistant Commercial Manager, East Central Railways, Hajipur, District- Vaishali, Bihar.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Sumeet Kumar Singh

For the Opposite Parties : Mr. Anil Kumar Sinha, SC

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-06-2018

The present petition has been filed for modification of the order dated 18.02.2016 passed in request case no. 02 of 2014 by which, *inter alia*, Hon'ble Mr. Justice Shyam Kishore Sharma, a retired Judge of this Court, was appointed as Arbitrator for resolving the dispute between the parties.



2. Learned counsel for the petitioner submits that Hon'ble Mr. Justice Shyam Kishore Sharma was subsequently appointed as Lokayukta for the State of Bihar and has indicated his inability to continue with the Arbitration proceeding. The question whether the Lokayukta could continue in arbitration proceeding was the subject matter of LPA No. 1546/2017 (*M/s Maa Kali Civcon Corporation Pvt. Ltd. Vs. The Union of India and others*) disposed on 13.11.2017. It was observed that the issue was not free from conflict and controversy but the Court did not deem it the appropriate to enter into the details of the issue and observed that it would be sufficient if any other person is appointed as Arbitrator in exercise of jurisdiction under Article 226 of the Constitution of India.

3. Learned counsel for the opposite parties appears and has been heard. He has no objection if any other person is appointed as Arbitrator in place of Hon'ble Mr. Justice Shyam Kishore Sharma.

4. In the above view of the matter, the judgment dated 18.02.2016 passed in request case no. 02 of 2014 is modified in line with the observations in LPA No. 46 of 2017, only to the extent that in place of Hon'ble Mr. Justice Shyam Kishore Sharma, now Hon'ble Mr. Justice Ramesh Kumar Datta, another retired Judge of this Court is hereby appointed as Arbitrator whose consent has already been obtained, to continue the arbitration proceeding in place of Hon'ble Mr.



Justice Shyam Kishore Sharma from the stage it was left by him.

5. The petition stands allowed.

(Vikash Jain, J)

Md. Ibrarul/BT

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