

IN THE HIGH COURT OF JUDICATURE AT PATNA
Request Case No.60 of 2018

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J I T F Water Infrastructure Ltd. having its registered office at 28, Shivaji Marg, New Delhi – 110015 through its Authorized Signatory Mr. Irfan Ahmad.

... .. Petitioner/s

Versus

1. Public Health Engineering Department (PHED), through its Principal Secretary having its office at – Vishwasariya Bhawan, Bailey Road, Patna – 800001, Bihar.
2. Engineer In Chief Cum Special Secretary Cum Project Director, State Project Unit, having office at - Vishwasariya Bhawan, Bailey Road, Patna – 800001, Bihar.

... .. Respondent/s

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with
Request Case No. 61 of 2018

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J I T F Water Infrastructure Ltd. having its registered office at 28, Shivaji Marg, New Delhi – 110015 through its Authorized Signatory Mr. Irfan Ahmad.

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Versus

1. Public Health Engineering Department (PHED), through its Principal Secretary having its office at – Vishwasariya Bhawan, Bailey Road, Patna – 800001, Bihar.
2. Engineer In Chief Cum Special Secretary Cum Project Director, State Project Unit, having office at - Vishwasariya Bhawan, Bailey Road, Patna – 800001, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anurag Saurav, Advocate
For the Respondent/s	:	Mr. Alok Ranjan, Advocate, A.C. to A.A.G. 5

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 24-08-2018

1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996, whereby and whereunder the petitioner seeks the appointment of Sole Arbitrator for the adjudication of the disputes which have already arisen between the parties herein.



2. A preliminary objection is raised by the learned counsel appearing on behalf of the respondent on the merits of the matter and maintainability of the application under Section 11 of the Arbitration and Conciliation Act, 1996, more particularly in view of the ordinance of Bihar Public Works Contract Disputes Arbitration Tribunal Act, 2008, more particularly Section 2(e) and Section 9 of the Act, 2008.

3. Having heard the learned counsel appearing for the respective parties and considering the fact that the dispute is with regard to a works contract (which is not disputed by the learned counsel appearing on behalf of the applicant), the dispute between the parties is required to be resolved by the learned Tribunal constituted under the Act, 2008. Section 9 of the Bihar Public Works Contract Disputes Arbitration Tribunal Act, 2008 reads as under:

“9. Reference to Tribunal and making of Award.--(1) Where any dispute arises between the parties to the contract, either party shall, irrespective of whether such contract contains an arbitration clause or not, refer, within one year from the date on which the dispute has arisen, such dispute in writing to the Tribunal for arbitration in such form and accompanied by such documents or other evidence and by such fees as may be prescribed.

(2) On receipt of a reference under sub-section (1), the Tribunal may, if satisfied after such enquiry as it



may deem fit to make, that the requirements under this Act in relation to the reference are complied with, admit such reference and where the Tribunal is not so satisfied, it may reject the reference summarily.

(3) Where the Tribunal admits the reference under sub-section (2), it shall, after recording evidence if necessary, and after perusal of the material on record and on affording an opportunity to the parties to submit their arguments make an award or an interim award, giving its reasons therefor.

(4) The Tribunal shall use all reasonable despatch in interim on and proceeding with the reference admitted by it and making the award, and an endeavour shall be made to make an award within 4 months from the date on which the Tribunal had admitted the reference.

(5) The award including the interim award made by the Tribunal shall, subject to an order, if any made under Section-12 or 13, be final and binding on the parties to the dispute.

(6) An award including an interim award as confirmed or varied by an order, if any, made under Section-12 or 13 shall be deemed to be a decree within the meaning of Section-2 of the Code of Civil Procedure, 1908 of the principal Court of original jurisdiction within the local limits whereof the award or the interim award has been made and shall be executed accordingly.”

4. In view of the above, the present application under Section 11 of the Arbitration and Conciliation Act, 1996 is not entertained.

5. It shall be open for the applicant to move the Tribunal as contemplated under Section 9 of the Act, 2008 and as and when



such proceedings are initiated, the same to consider in accordance with law for which this Court has not expressed anything on merit in favour of either parties.

(Mukesh R. Shah, CJ)

K.C.Jha/Uma/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	28.08.2018
Transmission Date	N/A

