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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ O.M.P. (T) (COMM.) 15/2018
SHIVA CONST. CO Petitioner
Through: Mr.S.W. Haider, Adv.

versus

UNION OF INDIA Respondent
Through: Mr.Ashok Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
% **16.05.2018**

This petition under Section 14 read with Section 15 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') has been filed by the petitioner praying for termination of the mandate of the Arbitral Tribunal and appointment of a substitute Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the work of "Construction of Road under Bridge by box pushing technique under Running Railway track" awarded to the petitioner vide Agreement no. 315-A/Cs/Du/CE/C/JUC dated 02.11.2010.

Disputes having arisen between the parties, the same were referred to the Arbitral Tribunal consisting of three serving officers of the respondent vide letter dated 01.01.2015. The learned counsel for the petitioner submits that the last hearing before the Arbitral Tribunal was held on 27.01.2017. He further submits that vide letter dated 31.08.2017, the Presiding Arbitrator tendered his resignation. He further submits that even on an earlier occasion, the then Presiding Arbitrator had tendered his resignation and due to this reason the arbitration proceedings were already delayed. He further submits

that the respondent instead of appointing a substitute Arbitrator, by the letter dated 30.11.2017 called upon the other two remaining Arbitrators to conclude the arbitration proceedings. He submits that this itself shows the callous manner with which the respondent was discharging its obligations under the Arbitration Agreement.

The learned counsel for the respondent, on the other hand submits that the proceedings were almost complete before the Arbitral Tribunal and only the Award was awaited. He submits that in view thereof, the respondent cannot be blamed for the delay.

Be that as it may, the fact is evident that the Presiding Arbitrator has not been appointed by the respondent in spite of almost six months having passed from the date of resignation of the then Presiding Arbitrator. In my view, therefore, the respondent has forfeited its right to appoint the Presiding Arbitrator.

I hereby appoint Mr.Vinod Kumar Jain, Retired District Judge, Punjab (R/o Road No.-33, Kothi No.-3, 3rd Floor, Punjabi Bagh, West Extension, New Delhi, Mobile:09468178585) as the Presiding Arbitrator. He shall give his disclosure under Section 12 of the Act to the parties before entering upon the reference.

The petition is allowed in the above terms with no order as to cost.

Dasti.

NAVIN CHAWLA, J

MAY 16, 2018/rv