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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ARB.P. 376/2018**

SAVINDER ANAND Petitioner
Through Mr. Avinash Trivedi, Adv.

versus

ALLIANCE TELENET PVT. LTD. Respondent
Through None

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER
% **29.08.2018**

1. There is no representation on behalf of the respondent.
2. The record shows that the respondent has been served.
3. Furthermore, a perusal of the order dated 23.8.2018 would show that the respondent was proceeded ex-parte on the said date.
4. For the sake of convenience, the relevant part of the order dated 23.8.2018 is set forth hereafter:

"...2. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (in short "The Act") for appointment of an Arbitrator.

3. Notice in this petition was issued on 21.05.2018. Despite service of notice, there has been no appearance on behalf of the respondent.

4. The record, presently placed before me, is indicative of the fact that petitioner was awarded a contract for Optical Fiber Cable Construction Work (33.95km) in Uttarakhand (Karanprayag to Chamoli), vide work order dated 08.08.2017.

5. The petitioner claims that while a part of the work was performed the rest could not be completed since several hindrances were experienced, which, though, were communicated to the respondent.

6. It is the petitioner's case that, the respondent did not take steps to remove the hindrances and therefore, the petitioner has [sic: had] no choice but to repudiate the contract and trigger the appointment, of the Arbitrator.

6.1. This was done, apparently, by the petitioner vide communication dated 16.03.2018.

7. The work order dated 08.08.2017 gives a right to the respondent to appoint an arbitrator.

8. Counsel for the petitioner says that despite notice dated 16.03.2018, respondent has taken no steps to appoint an Arbitrator.

10. My attention has been drawn, also, to the tracking report which seems to indicate that notice dated 16.03.2018 was served on the respondent on 28.03.2018.

11. In view of the aforesaid situation obtaining, the respondent is proceeded ex parte.

12. Renotify the matter on 29.08.2018.”

5. A perusal of the aforesaid extract would show that despite disputes having arisen between the parties herein with respect to the work order dated 8.8.2017, the respondent chose not to appoint an Arbitrator in the matter, though notice in that behalf was served upon him as alluded in the order dated 23.8.2018.

6. Since the respondent has chosen not to respond to the notice issued by the petitioner as well as the notice issued by this Court, the Court is left with no choice but to allow the petition.

7. Accordingly, Mr. Gurdeep Kumar, Retired District & Sessions Judge, Delhi, Mobile no.9910384622 is appointed as an Arbitrator in the matter.

8. The arbitration proceedings will be governed by the rules and the fee prescribed by the Delhi International Arbitration Centre.
9. The petition is disposed of in the aforesaid terms.

RAJIV SHAKDHER, J

AUGUST 29, 2018
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