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

+ **O.M.P. (T) (COMM.) 42/2018**

**AGGARWAL STRUCTURAL CONSULTANTS
PVT. LTD.**

..... Petitioner

Through: Mr Anil K. Aggarwal, petitioner in person.

versus

**PRINCIPAL CHIEF ENGINEER (PROJECTS) PUBLIC
WORKS DEPARTMENT (NCT -DELHI)**

..... Respondent

Through: Mr Gautam Narayan, ASC, GNCTD
with Mr Abhinav Goyal and Ms
Mahamaya Chatterjee, Advocates
with Mr Suresh Pal, Executive
Engineer, PWD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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24.05.2018

IA No.7286/2018

1. Allowed, subject to all just exceptions.

O.M.P. (T) (COMM.) 42/2018

2. The petitioner has filed the present petition under Section 14, 15 and 11(6) of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying as under:-

“A. Pass an order or direction under section 14 and/or 15 read with section 11(6) of the Arbitration and Conciliation Act, 1996, terminating the mandate of the sole arbitrator Mr. Anil Kumar Verma appointed by the respondent and

make fresh appointment of a sole arbitrator substituting the arbitrator so removed by this Hon'ble Court.”

3. The petitioner’s grievance is that there are justifiable doubts as to the independence and impartiality of the sole arbitrator, Mr Anil Kumar Verma, appointed by the respondent. The petitioner states that the said arbitrator has also been appointed by the respondent in four other arbitrations and, therefore, in terms of condition 22 of the fifth schedule to the Act, there are justifiable grounds to doubt his impartiality and independence.

4. This Court is of the view that the present petition would not be maintainable. As held by the Supreme Court in *HRD Corporation (Marcus Oil and Chemical Division) v. GAIL (India) Limited: 2017 SCCONLINE SC 1024* (upholding the view of this Court in *HRD Corporation (Marcus Oil and Chemical Division) v. GAIL (India) Limited: (2017) 240 DLT 132*), the petitioner is required to raise all objections as to the independence and impartiality of the arbitrator before the Arbitral Tribunal in terms of Section 13 of the Act. Recourse to Section 14 of the Act is only available in case of ineligibility under Section 12(5) of the Act, which refers to the conditions as set out in the seventh schedule to the Act and not the fifth schedule to the Act.

5. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

MAY 24, 2018
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