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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 491/2016

TATA TELESERVICES LTD

..... Petitioner

Through Mr A.C. Mishra, Advocate.

versus

PNM SERVICES PRIVATE LTD

..... Respondent

Through None.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

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15.05.2018

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying that an arbitral tribunal be constituted to adjudicate the disputes that have arisen between the parties.
2. None appears for the respondent despite service of notice.
3. The learned counsel appearing for the petitioner states that the disputes have arisen in respect of the Service Agreement dated 09.10.2014 (hereafter 'the Agreement'). The Agreement includes an arbitration clause which reads as under:-

“21. **ARBITRATION:** If the Parties fail to resolve such dispute by mutual consultation, then either Party may give the other, a formal notice in writing that the dispute, exist specifying its nature, the point(s) in issue and its intention to refer such disputes, to arbitration under the Arbitration and Conciliation Act; 1996 . Each Party will designate an arbitrator to represent their company to resolve any dispute with respect to-this Agreement. Then each of the arbitrators shall mutually agree to a third arbitrator. If they fail to agree

on the third arbitrator, the same shall be appointed by the Hon. High Court of competent jurisdiction, Arbitration shall be held in NEW DELHI and the arbitration proceedings shall be conducted in the English language only. The costs and expenses of the arbitration shall be borne by the respective Parties in the manner as specified by the Arbitration Tribunal in its Final Award. The award shall be final and binding on the Parties.”

4. In view of the disputes that have arisen, the petitioner served a notice nominating Mr Pranit Bose, Deputy General Manager, North as a nominee arbitrator. However, the respondent has failed to nominate its arbitrator.

5. It is also seen that in view of Section 125 of the Act, a serving officer of the petitioner cannot act as an arbitrator.

6. The learned counsel appearing for the petitioner requests that an arbitral tribunal be appointed. Accordingly, Mr T.R. Naval, Retd. ADJ, Delhi (Mobile No. 9910384662), Mr N.P. Kaushik, Retd. ADJ, Delhi (Mobile No. 9910384663) and Mr Arun Kumar Arya, Retd. ADJ, Delhi (Mobile No. 9910384687) are appointed as the arbitrators for adjudicating the disputes between the parties. Since the claims raised by the petitioner are not of a higher value, the fees of the arbitrators are fixed at ₹50,000/- each subject to the arbitrators making the necessary disclosure under Section 12 of the Act and not being ineligible under Section 12(5) of the Act. The parties are at liberty to approach the Arbitral Tribunal for further proceedings.

7. The petition is disposed of.

VIBHU BAKHRU, J

MAY 15, 2018/pkv