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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 652/2018

STAR FORMS

..... Petitioner

Through: Mr.Mayank Kaushik, Adv.

versus

DIRECTORATE GENERAL OF HOME GUARDS & ANR.

..... Respondents

Through: Mr.Devesh Singh, ASC (Civil), GNCTD
with Ms.Sukriti Ghai, Adv. for R-1-2

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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12.11.2018

1. This petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') has been filed by the petitioner seeking appointment of an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the Agreement dated 29.01.2016 executed between the petitioner and the respondents. The said Agreement contains an Arbitration Agreement between the parties in form of Clause 31 thereof, which is reproduced hereinbelow:

“31. i) That in case of any dispute arising out of the tender or any breach of agreement (accept those decisions which are otherwise herein above provided for). The matter will first be referred by Department/Star Forms to Director General Home Guards for Arbitration. Director General Home Guards reserves the right to appoint any person as arbitrator to sort out the dispute. The decision of the arbitrator so appointed shall be final and binding on the Star Forms.

ii) That there will be no objection to any such appointment

that the arbitrator so appointed is a Home Guards Department Officer and that he had to deal with the matters to which this indenture relates and that in the course to his duties as such Home Guards Officer he had expressed view on all or any matters in disputes or differences.”

2. Disputes having arisen between the parties, the petitioner invoked the Arbitration Agreement vide its notice dated 15.01.2018. Having failed to receive any response from the respondents, the present petition was filed.

3. Counsel for the respondent nos.1 and 2 placing reliance on Clause 12 of the Tender Conditions submits that the decision of the respondents to cancel the contract and/or to blacklist the petitioner cannot be made a subject matter of arbitration. She further submits that the respondent had failed to perform its obligation under the contract and therefore, was rightly blacklisted by the respondent.

4. As the existence of the Arbitration Agreement and due invocation thereof are not denied by the respondent, the appointment of an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Agreement cannot be denied. Whether the respondent has rightly invoked Clause 12(d) of the Tender Document or not will be a question to be determined by the Arbitrator. This certainly is not an excepted matter in terms of Clause 31 of the Agreement.

5. In view of above, I refer the parties to the Delhi International Arbitration Centre (DIAC) for appointment of a Sole Arbitrator to adjudicate the disputes that have arisen between the parties in relation

to the abovementioned Agreement. The parties shall appear before the Delhi International Arbitration Centre on 29th November, 2018 at 2.00 p.m. The arbitration proceedings and the fees shall be governed by the DIAC Rules.

6. The petition is disposed of with the above directions with no order as to costs.

NAVIN CHAWLA, J

NOVEMBER 12, 2018
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