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

+ OMP (T) (COMM) 58/2017 & IA Nos. 8217/2017 & 9839/2017

SWADESHI CIVIL INFRASTRUCTURE

PRIVATE LIMITED

..... Petitioner

Through: Mr Dinkar Singh, Advocate.

versus

DELHI TOURISM & TRANSPORTATION

DEVELOPMENT CORPORATION

..... Respondent

Through: Ms Anisha Upadhayay, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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21.02.2018

1. The petitioner has filed the present petition impugning the appointment of an arbitrator to adjudicate the disputes that have arisen between the parties in connection with an agreement dated 19.07.2011 (hereafter 'the Agreement'). The petitioner claims that Shri Vivekananda Vibek, who has appointed the Arbitrator, has no authority to do so. The petitioner further prays that an arbitrator be appointed to adjudicate the disputes that have arisen between the parties in relation to the Agreement.

2. The principal issue involved in the present petition is whether the appointment of the arbitrator made by Shri Vivekananda Vibek

(Superintendent Engineer/Chief Engineer, DTTDC) is sustainable. The learned counsel appearing for the petitioner has referred to various letters which indicate that Shri Vivekananda Vibek has been signing as “Superintendent Engineer, DTTDC” as well as “Chief Engineer, DTTDC”. Curiously, some of the letters issued by him as Superintendent Engineer and Chief Engineer have been issued on the same date.

3. The Dispute Resolution Clause (Clause 25 of the GCC) stipulates a procedure where the disputes are, in the first instance, to be resolved by the Superintendent Engineer and, thereafter, by the Chief Engineer. Since, in this case, there seems some confusion with regard to the designation of Shri Vivekananda Vibek, the petitioner has raised a controversy as to whether Shri Vivekananda Vibek was authorized to appoint an Arbitrator.

4. Without going into the aforesaid controversy, the learned counsel for the parties agree that this Court may appoint an arbitrator who is technically qualified (that is an Engineer).

5. Accordingly, with the consent of parties, this Court appoints A.K.Singhal (Retired) Director General, C.P.W.D (Mobile No. 9910444589) as a Sole Arbitrator to adjudicate the disputes that have arisen between the parties. This is subject to the arbitrator making the necessary disclosure in accordance with section 12 of the Arbitration and Conciliation Act, 1996 and not being ineligible in terms of section 12(5) of the said Act. The Arbitrator shall fix his fees in consultation with the learned counsel for the parties.

6. The parties are at liberty to approach the arbitrator so appointed for further proceedings.

7. In view of the consensus between the parties, the mandate of Shri O.P. Bhatia, who was appointed to act as an arbitrator, stands terminated.
8. The petition is disposed of with the aforesaid observations.

VIBHU BAKHRU, J

FEBRUARY 21, 2018

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