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

+ **W.P.(C) 11454/2018 and CM No. 44343/2018**

NHPC LIMITED

..... Petitioner

Through: Mr Deepak Jain, Ms Twisha Issar, Mr
Tanpreet Gulati and Mr Ayush
Acharjee, Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr Jasmeet Singh, CGSC with Mr
Srivats Kaushal, Advocate for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **23.10.2018**

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 09.04.2018, which is passed by the Arbitral Tribunal fixing its fee. According to the petitioner, the Arbitral Tribunal has fixed the arbitral fee which is exorbitant.
2. Section 5 of the Arbitral and Conciliation Act, 1996 (A&C Act) makes it explicitly clear that no judicial authority shall intervene except where so provided in the A&C Act. This Court is of the view that the present petition is misconceived and no interference with the arbitral proceedings is warranted.
3. It is also seen that the Arbitral Tribunal has fixed the fee as per the Fourth Schedule to the A&C Act. According to the petitioner, the fee as provided under the Fourth Schedule to the A&C Act is the aggregate fee for all the three Arbitrators constituting the Arbitral Tribunal. *Prima facie*, this Court is unable to agree with the said principle as the note to the fourth

schedule to the A&C Act indicates that a sole arbitrator would be entitled to an additional amount of 25% of the fee payable as per the Table set out in the Fourth Schedule of the A&C Act. This does indicate that the fee mentioned in the Fourth Schedule is for an arbitrator and not for the entire Arbitral Tribunal. In any view of the matter, this is a question of interpretation and is not amenable to interference in these proceedings under Article 226 of the Constitution of India.

4. The petition is, accordingly, dismissed. The pending application is also disposed of.

VIBHU BAKHRU, J

OCTOBER 23, 2018
RK