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

+ ARB.P. 799/2018 & IA 15908/2018

WINNER CONSTRUCTIONS PVT. LTD. Petitioner

Through: Ms.Priya Kumar & Mr.Tejas
Chhabra, Advs.

versus

DELHI STATE INDUSTRIAL & INFRASTRUCTURE
DEVELOPMENT CORPORATION LTD.THROUGH: EXECUTIVE
ENGINEER Respondent

Through: Ms.Firdouse Q.Wani & Ms.Ishita
Nagpaul, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **28.11.2018**

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 No. DSIIDC/CPM(CD-XXII)/Acctts/2010-11/42 for the work of Construction of Academic, Administration, Residential & Hostel Building for National Institute of Fashion Technology at Kangra, Himachal Pradesh (Civil & Electrical Works).

Disputes having arisen between the parties, the petitioner invoked the Arbitration Agreement vide its letter dated 09.05.2018. Pursuant to the above notice, a meeting was held between the parties on 17.09.2018. On 02.10.2018, the respondent addressed further communication to the petitioner seeking cooperation of the petitioner on certain issues.

As the respondent failed to appoint an Arbitrator, the present petition

was filed by the petitioner on 23.10.2018.

The respondent in its reply has asserted that it had appointed the Arbitrator on 22.10.2018, that is, prior to the filing of the present petition and communicated the said fact to the petitioner on 05.11.2018. It is further stated that the fact of the appointment of the Arbitrator could not be communicated to the petitioner earlier as the concerned official who was to communicate the decision to the petitioner was out of the country till 04.11.2018.

The learned counsel for the petitioner submits that as the respondent has failed to file documents on record to substantiate its claim that it had appointed the Arbitrator on 22.10.2018. She further submits that as the communication of the appointment was made to the petitioner only on 05.11.2018, that is, after the filing of the present petition, the respondent has lost its right to appoint an Arbitrator.

Without going into the controversy whether the respondent indeed had taken the decision to appoint an Arbitrator on 22.10.2018, I appoint **Justice P.S. Teji**, former Judge of this Court (B-46, Defence Colony, New Delhi-110024, Mobile: 9910384615) as an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Agreement.

The Arbitrator shall give a disclosure under Section 12 of the Act before proceeding with the reference.

The petition is disposed of with the above direction and with no order as to cost.

NAVIN CHAWLA, J

NOVEMBER 28, 2018/rv