

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17908 of 2018

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Dilip Kumar Choudhari, son of Tej Narayan Choudhari, resident of Nayatola
@ Hamidpur, P.S. Puraini, District Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Madhepura.
2. The District Magistrate, Madhepura.
3. The Sub Divisional Officer, Madhepura.
4. The District Supply Officer, Madhepura.
5. The Bihar State Food and Civil Supplies Corporation Ltd, Madhepura Khadya Bhawan Daroga Rai Path R. Block Road No. 2 Patna through its Managing Director.
6. The Managing Director the Bihar State Food and Civil Supplies Corporation Ltd. Madhepura Khadya Bhawan Daroga Rai Path R. Block Road No. 2 Patna.
7. The District Manager State Food Corporation Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Mishra, Adv.
For the Respondent/s : Mr.Alok Ranjan, AC to AAG5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 09-01-2019 This matter has been posted under the heading “For Orders” as it was agreed at the Bar that in terms of Clause 20 of the agreement which provides for reference of dispute between the parties to an Arbitral Tribunal, the parties shall reach to a consensus upon the name of a retired Judge of this Hon’ble High Court who may be appointed as an Arbitrator.

Today, when the matter is called out, Mr. Sanjeev Kumar, learned counsel for the petitioner and Mr. Alok Ranjan, learned AC to AAG 5 are present but learned counsel for the Bihar State Food and Civil Supplies Corporation Ltd., Mr.



Shailendra Kumar Singh is not present.

Clause-20 of the agreement in question reads as under:-

“20.All disputes arising under or in pursuance of this agreement between the parties, except matters decision of which herein expressly is otherwise provided, shall be referred to sole arbitration of the C.M.D/Managing Director of the Bihar State Food and Civil Supplies Corporation Ltd. Patna or a person nominated by the C.M.D/ Managing Director decision of such arbitrator shall be final and binding on both the parties. The provisions of the arbitration and conciliation act. 1996 and rules framed there under and the statutory modifications thereof shall apply to the proceedings of arbitration and all such disputes shall be subject to the jurisdiction of Courts at Patna.”

Learned counsel for the petitioner rightly submits that in view of the Amendment Act of 2015 which came into effect from 23.10.2015, now the Managing Direction of the Bihar State Food and Civil Supplies Corporation Ltd. or a person nominated by him would be ineligible to be appointed as an Arbitrator, therefore, it was agreed between the parties that they will name a retired Hon’ble Judge of this Court to be the sole arbitrator.

Since, learned counsel for the Bihar State Food and



Civil Supplies Corporation Ltd. is not present, no order may be passed on the basis of consensus between the parties. The petitioner is directed to act in terms of Clause-20 of the agreement by issuing necessary notice calling upon the Bihar State Food and Civil Supplies Corporation Ltd. to refer the dispute to a sole arbitrator and for that purpose both the parties may discuss the matter for naming a mutually consented arbitrator in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and the Rules framed thereunder.

This writ application is disposed of in terms indicated hereinabove.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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