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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMMERCIAL ARBITRATION PETITION NO.308 OF 2019

Reliance Naval & Engineering Ltd.

...Petitioner

Versus

Oil and Natural Gas Corporation

...Respondent

Mr. D. J. Kakalia i/by M/s Mulla & Mulla & C.B & C. for the petitioner

Mr. Prakash Shinde i/by MDP and Partners, for respondents.

CORAM: **G.S.KULKARNI, J.**

DATED: **25 March 2019**

P.C.:

1. Heard Mr. Kakalia, learned Counsel for the petitioner and Mr. Prakash Shinde, learned counsel for the respondent.

2. After this petition was heard for sometime, learned Counsel for the petitioner, on instructions, submits that the petitioner is desirous to have adjudication of the disputes which have arisen between the parties and subject matter of the present proceedings, by an Arbitral Tribunal as agreed between the parties under the arbitration agreement.

3. Learned Counsel, for the petitioner, on instructions submits that within seven days from today a notice as per Clause 27(1) of the Contract shall be issued to the respondent invoking arbitral proceedings. Learned counsel, for the petitioner, on instructions, would further submit that the petitioner intends to nominate Smt. Justice Gyansudha Misra, Former Judge of the Supreme Court of India, as the nominee arbitrator on behalf of the petitioner.

4. Heard the learned Counsel for the parties. In my opinion, interest of justice would be served, if the disputes between the parties are agitated before the Arbitral Tribunal.

5. In the circumstances, the respondent would nominate its prospective Arbitrator within a period of one week from receipt of the Notice from the petitioner as per paragraph No.2 above. The prospective arbitrators so nominated by the parties shall appoint a Presiding Arbitrator within a period of three weeks from the date the respondent nominates its arbitrator.

6. The learned prospective Arbitrator before entering a reference will have to make a disclosure as per Section 11(8) read with Section 12(1) of the ACA, and copies of said disclosure be furnished to the parties.

7. In view of the above, the notice period of 60 days as provided in Clause 27(1) of the Contract may not be insisted by the respondent.

8. The Petitioner accordingly does not press for the reliefs in this petition under Section 9 of the ACA and intends to move the Arbitral Tribunal by treating this petition as an application under Section 17 of the ACA. The Arbitral Tribunal to adjudicate upon the said application as expeditiously as possible and endeavour to dispose of the same within a period of six weeks from filing of the said application.

9. All contentions of the parties, are expressly kept open.

10. Petition is disposed of in the above terms. No costs.

(G.S.Kulkarni,J.)