

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Arb.Appln.No.104 of 2018

O R D E R:

Heard counsel for petitioner and Sri K.Raghava Charyulu, counsel appearing for respondent.

2. This Arbitration Application is filed under Section 11(5)&(6) of the Arbitration and Conciliation Act, 1996 for appointment of a sole Arbitrator to adjudicate the disputes between the parties arising out of the Letter of Award of Contract dt.20.02.2012 issued by the respondent to the applicant.

3. Clause 16.4 and 16.5 of the said Letter of Award are as under:

“16.4 **Settlement of all disputes through Arbitration:** All disputes or differences which may arise between the OWNER and the CONTRACTOR in connection with this contract (other than those in respect of which the decision of the OWNER/ENGINEER is expressed in the contract to the final and binding) shall, after written notice by either party to the other and to the chairman of the NMDC Ltd., (who will be the Appointing Authority) be referred for adjudication to a sole arbitrator to be appointed as hereinafter provided.

16.5 The appointing authority will send within ninety days of the receipt of the notice, a panel of three names of persons of directly connected with the work to the CONTRACTORS who will select any one of the persons named to be appointed as a sole arbitrator within 30 days of receipt of the names. If the appointing authority fails to send to the contractor the panel of three as aforesaid within the period specified, the CONTRACTOR shall send to the appointing authority a panel of three names of persons who shall also be unconnected with the organization by which the work is executed. The appointing authority shall on receipt

of names as aforesaid select any one of the persons named and appointing him as the sole arbitrator within 30 days of receipt of the panel and inform the CONTRACTOR accordingly, the CONTRACTOR shall be entitled to invoke as the provisions of the Indian Arbitration and Conciliation Act, 1996 and any statutory modification thereof.”

4. Admittedly, On 06.06.2018, the applicant had addressed a letter to the Chairman and Managing Director of the respondent invoking the arbitration clause 16.4 and suggesting the names of three persons to be the Arbitrators.

5. Within 90 days of receipt of the said letter, the respondent sent a letter dt.04.09.2018 suggesting the names of three retired judges of the High Court of A.P. as under:

- “1. Justice Shri C.V.N.Sastry, retired Judge of the Hon’ble High Court of Andhra Pradesh.
2. Justice Shri.Vaman Rao, retired Judge of the Hon’ble High court of Andhra Pradesh.
3. Justice Shri B.Prakash Rao, retired Judge of the Hon’ble High Court of Andhra Pradesh.”

6. Though this letter was received by the applicant on 10.09.2018 as per postal track record produced by the respondent, this arbitration application has been filed seeking appointing of an Arbitrator on 01.10.2018.

7. Counsel for the applicant states that the applicant had no objection for the appointment of Hon’ble Sri Justice Vaman Rao, Retired Judge of High Court of Andhra Pradesh, who is one of the persons suggested by the respondent in their letter dt.04.09.2018, to be the sole Arbitrator.

8. Therefore, this Arbitration Application is allowed and the Hon'ble Sri Justice Vaman Rao(Retired) is appointed as a Sole Arbitrator to adjudicate the disputes between the applicant and respondent arising out or in relation to the Letter of Award dt.20.02.2012. No order as to costs.

9. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

26th April, 2019.

Note: Copy to be marked to
Hon'ble Sri Justice Vaman Rao(Retired),
Flat No.202 & 203, H.No.3-4-874/1/9,
Mahasiva Apts., Barkatpura, Hyd-27.

B/o(gra)

