$~A-6 to 30

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

% **Date of decision: 11.12.2019**

\+ ARB.P. 745/2019
M/S SATYAM CATERERS PVT. LTD. ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

\+ ARB.P. 746/2019
M/S BRANDAVAN FOOD PRODUCTS ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

\+ ARB.P. 747/2019
M/S SATYAM CATERERS PVT. LTD. ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

\+ ARB.P. 748/2019
M/S ROOP CATERERS ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC)

..... Respondent

+ ARB.P. 749/2019
M/S BRANDAVAN FOOD PRODUCTS ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

+ ARB.P. 750/2019
M/S R.K ASSOCIATES & HOTELIERS PVT. LTD. ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

+ ARB.P. 751/2019
M/S BRANDAVAN FOOD PRODUCTS ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

+ ARB.P. 753/2019
M/S BRANDAVAN FOOD PRODUCTS ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

+ ARB.P. 755/2019
M/S BRANDAVAN FOOD PRODUCTS ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

+ ARB.P. 756/2019
M/S BRANDAVAN FOOD PRODUCTS ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

\+ ARB.P. 757/2019
R.K. ASSOCIATES AND HOTELIERS PVT.LTD. ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

\+ ARB.P. 758/2019
M/S SATYAM CATERERS PVT. LTD. ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

\+ ARB.P. 759/2019
M/S BRANDAVAN FOOD PRODUCTS ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

\+ ARB.P. 760/2019
M/S SATYAM CATERERS PVT. LTD. ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

\+ ARB.P. 761/2019

M/S BRANDAVAN FOOD PRODUCTS ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

\+ ARB.P. 763/2019
M/S ROOP CATERERS. ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

\+ ARB.P. 765/2019
R. K. ASSOCIATES AND HOTELIERS PVT LTD..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

\+ ARB.P. 766/2019
R.K. ASSOCIATES AND HOTELIERS PVT.LTD. ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

\+ ARB.P. 767/2019
M/S BRANDAVAN FOOD PRODUCTS ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

+ ARB.P. 768/2019
M/S BRANDAVAN FOOD PRODUCTS ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

+ ARB.P. 769/2019
R. K. ASSOCIATES AND HOTELIERS PVT.LTD..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

+ ARB.P. 770/2019
M/S ROOP CATERERS ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

+ ARB.P. 780/2019
R.K. ASSOCIATES AND HOTELIERS PVT.LTD . ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

+ ARB.P. 789/2019
R.K ASSOCIATES AND HOTELIERS PVT. LTD ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

+ ARB.P. 797/2019
R.K ASSOCIATES AND HOTELIERS PVT.LTD ..... Petitioner

versus

INDIAN RAILWAY CATERING AND TOURISM CORPORATION LIMITED (IRCTC) ..... Respondent

Through: Mr. Amarjit Singh Chandhiok, Sr. Advocate with Mr. Manish K. Bishnoi, Mr. Umang Raj, Mr. Anurag, Mr. Ritesh Kumar, Mr. Tarajit Singh and Ms. Simran Kohli, Advocates for petitioner.

Mr. Nikhil Majithia, Standing Counsel for IRCTC.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JYOTI SINGH, J. (ORAL)

1. The present petitions have been filed under Section 11(5) of the Arbitration & Conciliation Act, 1996 ('Act') seeking appointment of a Sole Arbitrator to adjudicate the disputes between the parties. Since common questions are involved in the above petitions, the same are being disposed of by a common order.

2. The petitioners are engaged in the business of hospitality and providing catering services in various units of the Railways and IRCTC. Respondent is the IRCTC, which is a Central Public Sector Enterprise, fully controlled by the Indian Railways.

3. Pursuant to a policy framed by the Railway Board on 21.07.2010, bids were invited by the Railways for the work of operation, management and

supply of catering services on certain trains. A Master License Agreement was entered into between the parties under which the tenure of contract entered into was five years, subject to renewal by another five years, based on the satisfactory performance of the petitioners.

4. In 2017, the policy of 2010 was superseded and another policy came into effect. The said policy had different conditions and disputes arose between the parties with respect to certain terms and conditions of the policy of 2017. The initial contract period/license of the petitioners expired and they sought to renew the same on the basis of an alleged vested right of renewal under the Master License Agreement. The respondent, however, refused to renew the license on the basis of the 2010 policy.

5. Respondent insisted that the renewal of the contract would be subject to the petitioners unconditionally accepting the new terms and conditions under the 2017 policy. An offer letter to this effect was issued by the respondent and on receipt of this letter, the petitioners submitted a representation.

6. A notice invoking arbitration was sent by the petitioners. In the meantime, the respondent appointed a former Chief Justice of Himachal Pradesh High Court as a Sole Arbitrator to adjudicate the disputes between the parties.

7. When the present petitions were filed, the respondent had no objections to the appointment of an arbitrator but there was no consensus on the name of the arbitrator. However, with the efforts of the counsels and the parties, a consensus has been reached on the appointment of Mr. Justice Swatanter Kumar, former Judge of the Supreme Court of India, to be a Sole Arbitrator, to adjudicate the disputes.

8. With the consent of the parties, Mr. Justice Swatanter Kumar, former Judge of the Supreme Court of India is hereby appointed as a Sole Arbitrator.

9. The address of the Learned Arbitrator is as under:

Mr. Justice Swatanter Kumar,
Former Judge of the Supreme Court of India,
Address: C-3/5, First Floor,
Safdarjung Development Area,
New Delhi.

10. The Learned Arbitrator shall give disclosure under Section 12 of the Act, before entering upon reference.

11. It is agreed between the parties that all the above-mentioned petitions will be treated as one petition for reference to arbitration with respect to the fee of the Learned Arbitrator. It is further agreed that since this is a composite reference, the fee of the arbitrator shall be fixed in accordance with the Fourth Schedule of the Act and the valuation would be with reference to the contract which is of the highest value.

12. The petitions are disposed of in the aforesaid terms.

Dasti.

JYOTI SINGH, J

DECEMBER 11, 2019
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