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

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Date of decision: 21st November, 2019

+ **ARB.P. 701/2019**

HIMALAYA COMMUNICATIONS LTD.

..... Petitioner

Through: Mr. Sakal Bhushan and Mr. Robin George, Advocates.

versus

BHARAT SANCHAR NIGAM LTD.

..... Respondent

Through: Mr. Sunil Dalal, Advocate.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JYOTI SINGH, J. (ORAL)

1. This is a petition filed under Section 11(6) of the Arbitration & Conciliation Act, 1996 ('Act') for appointment of a Sole Arbitrator to adjudicate the disputes and differences between the parties pursuant to an agreement entered into between the parties dated 24.06.2016.
2. The arbitration clause between the parties reads as under:-

“19.1 In the event of any question, dispute or difference arising under this agreement or in connection there-with (except as to the matters, the decision to which is specifically provided under this agreement), the same shall be referred to the sole arbitration of the CMD, BSNL or in case his designation is changed or his office is abolished, then in such cases to the sole arbitration of the officer for the time being entrusted (whether in addition to his own duties or otherwise) with the functions of the CMD, BSNL or by whatever designation such an offer

may be called (hereinafter referred to as the said officer), and if the CMD or the said officer is unable or unwilling to act as such, then to the sole arbitration of some other person appointed by the CMD or the said officer. The agreement to appoint an arbitrator will be in accordance with the Arbitration and Conciliation Act, 1996/Arbitration and Conciliation (Amendment) Act, 2015 as amended from time to time. There will be no objection to any such appointment on the ground that the arbitrator is a Government Servant or that he has to deal with the matter to which the agreement relates or that in the course of his duties as a Government Servant he has expressed his views on all or any of the matters in dispute. The award of the arbitrator shall be final and binding on both the parties to the agreement. In the event of such an arbitrator to whom the matter is originally referred, being transferred or vacating his office or being unable to act for any reason whatsoever, the CMD, BSNL or the said officer shall appoint another person to act as an arbitrator in accordance with terms of the agreement and the person so appointed shall be entitled to proceed from the stage at which it was left out by his predecessors.

19.2 The arbitrator may from time to time with the consent of both the parties enlarge the time for making and publishing the award. Subject to the aforesaid, Arbitration and Conciliation Act, 1996/ Arbitration and Conciliation (Amendment) Act, 2015 and the rules made there under, any modification thereof for the time being in force shall be deemed to apply to the arbitration proceeding under this clause.

19.3 The venue of arbitration shall be BSNL CO. New Delhi and/or Circle/SSA HQ or the office of the Arbitrator situated at New Delhi or at the respective Territorial Circle/SSA HQ, as the case may be.”

3. Issue notice. Learned counsel for the respondent enters appearance and accepts notice.

4. Learned counsel for the respondent, on instructions, submits that he has no objection to the appointment of the Arbitrator.
5. With the consent of the parties, I appoint Hon'ble Mr. Justice M.L. Mehta, a former Judge of this Court, as the Sole Arbitrator to adjudicate the disputes between the parties. The address of the learned Arbitrator is as under:

Hon'ble Mr. Justice M.L. Mehta (Retd.),
Address: H-34, Jangpura Extension, New Delhi-110014
Mobile No.: 9910384620

6. The Arbitrator will give a disclosure under Section 12 of the Arbitration & Conciliation Act, 1996 before entering upon the reference.
7. The fee of the Arbitrator shall be as per the Fourth Schedule of the Act.
8. The petition is allowed in the aforesaid terms.

JYOTI SINGH, J

NOVEMBER 21, 2019

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