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

+ **W.P.(C) 1483/2019**

R K JAIN & SONS HOSPITALITY SERVICES PVT LTD

..... Petitioners

Through : Mr.Sougata Ganguly, Mr.Amit Jain
and Ms.Seema Kumari, Advocates.

versus

NEW DELHI MUNICIPAL COUNCIL & ANR

..... Respondents

Through : Mr.Anil Grover, SC and Mr.Gaurav
Bhargave and Ms.Noopur Singhal,
Advocates with Mr.S.K.Verma, AE
in person for NDMC.
Mr.T.S.Nanda, Advocate for
respondent No.2/GNCTD.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **18.02.2019**

CM APPL No.6811/2019

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 1483/2019

The disputes so raised in this petition is concerning the labour cess being charged by the respondent department on housekeeping service and sanitation work. As per the submissions made by the learned counsel for petitioner, such labour cess need not be charged in view of provisions as contained in Section 2(i) (d) of the Building and Other Construction Work Act, 1996.

The learned counsel for the respondent appearing on advance

notice says such cess has been charged since the year 2005 and petitioner has been paying the same as it was a condition of the contract entered into between the parties from time to time. The legal opinion sought is though relied upon by the petitioner, but the learned counsel for the respondent says the same cannot be looked into at this stage since clause No.25 of the conditions of contract provides for Settlement of Disputes through Arbitration qua interpretation of any of the terms of the contract.

Since there lies an alternative remedy available to the petitioner, it would be appropriate for the petitioner to avail such remedy, hence the learned counsel for the petitioner seeks to withdraw the petition with a liberty to have resort under the provision of Arbitration and Conciliation Act, 1996.

The petition stands dismissed as withdrawn with aforesaid liberty. The pending application also stands disposed of. No orders as to costs.

YOGESH KHANNA, J.

FEBRUARY 18, 2019

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