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

+ **ARB.P. 893/2018**

GARGI CONSTRUCTION CORPORATION

..... Petitioner

Through: Mr.Rajasree Ajay, Adv.

versus

GOVT. OF NCTD

..... Respondent

Through: Mr.Jawahar Raja, ASC with
Mr.Ravinder Kumar, Ex. Engineer &
Mr.B.S. Rana, Asst. Engineer.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **18.01.2019**

1. This petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') has been filed by the petitioner seeking appointment of an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the Letter of Award dated 25.09.2008 by which the respondent had awarded the work of Construction of chaupal/Panchyat Ghar for Parjapati (Jogi) Community at Kh.No. 532 in village Neb Sarai in Mehrauli block. The Arbitration Agreement is contained in Clause 25 of the General Conditions of the Contract (GCC).
2. Disputes having arisen between the parties, the petitioner filed its claim before the Executive Engineer vide letter dated 23.08.2017, as modified by the corrigendum dated 05.10.2017.
3. As no response was received, the petitioner filed the claim before the Superintending Engineer by its letter dated 28.03.2018.

4. As again no response was received, the petitioner filed its claim before the Chief Engineer by the letter dated 16.05.2018. In the said letter, the petitioner requested the Chief Engineer to appoint an Arbitrator in in terms of Clause 25 of the GCC. Having received no response to the above request, the present petition was filed.

5. The learned counsel for the respondent submits that the respondent is ready and willing to appoint an Arbitrator. In my opinion and in terms of the judgment of the Supreme Court in *Datar Switchgears Ltd. Vs. Tata Finance Ltd. & Anr*, (2000) 8 SCC 151, as the respondent did not appoint the Arbitrator in terms of Clause 25 of the Agreement forcing the petitioner to file the present petition, the respondent has lost its right to now appoint the Arbitrator.

6. In view of the above, I find no impediment in appointing a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Letter of Award.

7. I appoint **Mr.N.P Kaushik**, Retd. District Judge (R/o C-35, Suraj Mal Vihar, Delhi-110092, Mobile: 9910384663) as a Sole Arbitrator. The Arbitrator shall give disclosure under Section 12 of the Act before proceeding with the reference.

8. The Arbitration proceedings shall be conducted under the aegis of Delhi International Arbitration Centre (DIAC). The DIAC Rules as to procedure and fee shall be applicable to such proceedings.

9. The petition is allowed in the above terms, with no order as to cost.

NAVIN CHAWLA, J

JANUARY 18, 2019/rv