

IN THE HIGH COURT OF JUDICATURE AT PATNA

REQUEST CASE No.127 of 2019

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Rajeev Kumar Son of Sri Vijay Kumar Gupta Resident of Village- Cheriya Bariyarpur, P.S.- Cheriya Bariyarpur, District- Begusarai, Proprietor M/s Geetanjali Rice Mill at Village- Teghra, P.O. and P.S.- Teghra, District- Begusarai (Bihar).

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Limited Khadya Bhawan, Daroga Rai Path, R- Block, Road No.-2, Patna- 800001 through its Managing Director.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Rai Path, R- Block, Road No.-2, Patna- 800001.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Raju Giri, Advocate

For the Respondent/s : Mr.Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 19-02-2020

Heard learned counsel for the petitioner and learned counsel for the respondents.



The present petition has been filed for reappointment of an independent Arbitrator in terms of Section 11(6) of the Arbitration & Conciliation Act, 1996, in the light of the order dated 23.08.2019 passed by the learned Arbitrator, by which the learned Arbitrator has been pleased to return the case due to personal reason.

On 22nd of November, 2017, this Court had passed the following order:-

“Heard learned counsel for the parties.

In identical proceedings i.e. in Request Case Nos. 8 of 2016 and various other analogous cases, a detailed order has been passed by me on 19.04.2017 allowing an application under Section 11 (6) of the Arbitration and Conciliation Act and an Arbitral Tribunal has been constituted. In this application also, the respondents herein had entered into an agreement with the applicants and the issues, identical in nature, have been referred for arbitration on 19.04.2017. As identical issues are involved in the matters which have already been considered on 19.04.2017 in Request Case No. 8 of 2016 and other cases and as the same objections are raised herein, I see no reason to take a different view from the one already taken by me on 19.04.2017 when a series of cases detailed hereinabove were disposed of.

The objection of the respondents that the matter is pending before the Hon’ble Supreme Court



in an S.L.P. cannot be a ground for postponing the matter as on several occasions adjournments are taken on this very ground. That apart, the contention that certain applicants have deposited the amount is not a ground for refusing arbitration, but a ground to be raised by the respondents before the Arbitrator and the consequential effect taken note of by the Arbitrator.

For the reasons and grounds indicated in the order dated 19.04.2017, these applications are allowed.

Hon'ble Mr. Justice R.K. Datta, a retired Judge of this Court is appointed as arbitrator to adjudicate the dispute. However, in these proceedings this Court has not gone into the merits of various objections raised with regard to maintainability of the dispute. In view of the certificate proceedings held, the question of limitation and all other issues are left open to be canvassed by the parties before the arbitrator.”

The learned Arbitrator has expressed his difficulty in conducting the arbitral proceedings. As such, a new Arbitrator is required to be appointed.

As such, the judgment dated 22.11.2017 passed in Request Case No. 234 of 2017, titled as Rajeev Kumar Vs. The Bihar State Food & Civil Supplies Corporation Limited & Ors.



is modified to the extent that, with the consent of the parties, Shri Vikash Kumar Sharma, retired District & Sessions Judge, is appointed as an Arbitrator to adjudicate the dispute inter se the parties, arisen out of the agreement dated 02.02.2013 (Annexure-3) in terms of Clause 16 thereof, in relation to the supply of rice.

It stands clarified that, in the attending circumstances the order is passed and would not cover other cases having arisen out of some what similar circumstances.

Parties undertake to appear before the learned Arbitrator on 30.04.2020 and apprise him of passing of this order. They also undertake to fully cooperate and request the learned Arbitrator to complete the proceedings at the earliest, which request, this Court, hope, would be considered appropriately.

Let Registrar General ensure that a copy of this order is made available to the learned Arbitrator by 20th April, 2020.

The parties shall file their statement of claims before the learned Arbitrator on the next date of hearing.

Needless to add, that arbitral proceedings shall be held in consonance with the settled principles of law and the provisions of the Arbitration and Conciliation Act.



Learned Arbitrator shall be entitled to fee as per
schedule.

The petition stands disposed off in the aforesaid
terms.

(Sanjay Karol, CJ)

P.K.P./-Utkarsh

AFR/NAFR	
CAV DATE	
Uploading Date	09.04.2020
Transmission Date	

