

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**ARBR No. 1 of 2019**

M/s Hi-Tech Engineers, Through Its Proprietor- Sagar S. Chati S/o Sri Sudhaka Chati, Aged about 44 years having Its Registered Office At 10 Alps Residentials, Central Excise Co. Ho. Soc. Ring Road, Swarkar Nagar, Nagpur, Maharashtra.

---- Applicant**Versus**

1. M/s Rajgaria Industrial Equipment Pvt. Ltd. Through Its Directors Namely (i) Shri Ajay S. Agrawal, (ii) Shri Taranjeet Singh Hora, Having Its Registered Office At D- 48, Devendra Nagar, Raipur, Chhattisgarh.
2. Shri Ajay Agrawal Director Of M/s Rajgaria Industrial Equipment Pvt. Ltd., R/o C-63, Hig Colony, Shailendra Nagar, Near Katora Talab, Raipur, Chhattisgarh.
3. Shri Taranjeet Singh Hora S/o Gurucharan Singh Director Of M/s Rajgaria Industrial Equipment Pvt. Ltd., R/o D-169, Sector-4, Devendra Nagar, Raipur, Chhattisgarh.

---- Respondents

For Applicant	:	Mr. Vaibhav A. Goverdhan, Advocate
For Respondents	:	Mr. Abhyuday Singh, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****03/07/2020**

1. Present is an application under Section 11(6) of the Arbitration and Conciliation Act, 1996 requesting for appointment of an Arbitrator. According to the applicant, the application has been filed as the respondents have failed to appoint an Arbitrator for redressal of the dispute between the parties.
2. The facts which led to the filing of the present application is that the applicant is a Public Limited Company duly incorporated under the provisions of Companies Act, 1956 with its registered office at Nagpur, Maharashtra. The applicant-company is a Civil Contractor involved in many standard civil works. The respondents had floated a tender for the

civil and structural work of proposed commercial and Hotel building “M/s. Grand Meridian” situated at Station Road, Raipur. The applicant participated in the bidding process and the applicant's bid was accepted. The respondents issued work order dated 01.08.2011 in favour of the applicant and work contract/work agreement was executed between the applicant and the respondents. According to the applicant, the respondents had appointed one M/s. Nashine Associates, Architect and Interior Designer, 294, Nashine House, Gandhi Nagar, Nagpur, Maharashtra to execute the said work.

3. That, in the course of execution of the work the applicant was also directed to discharge certain additional works, which also was accepted by the applicant and the work was completed, like the construction of the water tank, etc. However, for the additional works and for the delayed payment on the part of the respondents, he has not been paid any money and for the delayed payment, the applicant was not awarded the interest in terms of the clauses of agreement. Since the bills raised by the applicant were not settled, it was mutually agreed that the architect engaged by the parties would scrutinize the bills raised by the applicant and shall reach to an acceptable figure, which according to the petitioner was finally arrived at an amount of Rs.1,40,74,015/-. This aforementioned amount also has not been paid by the respondents to the applicant inspite of having the certification from the architect engaged by the respondents. When the payments were not released for quite sometime, the legal notice was issued on behalf of the applicant to the respondents, to which also there was no favourable response received from the respondents. The applicant also had sent a proposal to the respondents for appointment of an architect under the FIIA namely Shri D.L. Naware to

act as an Arbitrator in terms of the contract/agreement entered into between the parties. Yet the respondents did not show any favourable response, which led to the applicant filing this application under Section 11 of the Arbitration Act, 1996 for appointment of an Arbitrator by this Court.

4. The applicant thereafter requested the respondents for appointment of an Arbitrator for settling the dispute. Since the respondents failed to respond to the request of the applicant, the applicant has approached this Court vide the present Arbitration Application under Section 11(6) of the Arbitration and Conciliation Act, 1996.
5. Mr. Abhyuday Singh, Advocate entered appearance on behalf of the respondents and both the parties agreed upon in view of Clause 25 of the General Conditions of Contract for settlement of the dispute by way of an Arbitration. Both the parties i.e. the applicant as well as the respondents proposed the name of Hon'ble Justice V.K. Shrivastava, Retired Judge of this High Court, as an Arbitrator to be appointed as an Arbitrator to resolve and redress the grievance between the applicant and the respondents.
6. In view of the joint proposal made by the parties in exercise of the powers conferred under Section 11(6) of the Act of 1996 under the authority given by Hon'ble the Chief Justice, I hereby appoint Hon'ble Justice V.K. Shrivastava, Retired Judge of this High Court to act as an Arbitrator and arbitrate the dispute between the parties in accordance with the provisions of Arbitration and Conciliation Act, 1996.

7. The Registry is directed to communicate this order to Hon'ble Justice V.K. Shrivastava to enter upon reference after complying with the provisions contained under Section 12(2) of the Arbitration and Conciliation Act, 1996 and to adjudicate upon the dispute as expeditiously as possible in accordance with the Act of 1996.
8. The remuneration of the Arbitrator shall be settled with the mutual consent by the parties.
9. The arbitration application accordingly stands allowed to the extent indicated herein above.
10. No order as to costs.

Sd/-
(P. Sam Koshy)
Judge

Ved