

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2020

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

O.P.No.346 of 2020

M/s.Thirumalai Enterprises,
Electrical A-Grade Contractors & Engineers
Rep. by its partner R.Ganesh,
No.33, Nehru Nagar, 1st Floor, 3rd Cross,
Thengaithittu Road, Puducherry - 605 004. ... Petitioner

Vs.

1. The Secretary to Government,
Department of Tourism,
Government of Puducherry,
Puducherry - 605 001.
2. The Director,
Department of Tourism,
Government of Puducherry,
23, Ambedkar Salai, Upplam, Puducherry,
3. The Managing Director,
Puducherry Tourism Development Corporation Ltd.,
Puducherry.
4. The Project Engineer, Project Cell,
Puducherry Tourism Development Corporation Ltd.,
Puducherry. ... Respondents

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Prayer : Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, to appoint an independent Sole Arbitrator to adjudicate upon the claims of the petitioner as per the Arbitration Application dated

27.01.2020 submitted by the petitioner to the Director, Department of Tourism, Government of Puducherry viz., the 2nd respondent herein, as per the Agreement No.19/PTDC/2015-16 dated 13.06.2015 and as per Clause 25 of the General Conditions of the Contract for Public Works 1996.

For Petitioner : Mr.N.Thiagarajan

For Respondents : Mr.D.Ravichandar

ORDER

This petition has been filed for appointment of an arbitrator to resolve the dispute between the parties with regard to the payment of money in respect of contract relating to renovation of botanical garden at Puducherry.

2. It is the contention of the learned counsel for the petitioner that he wrote a letter to the Director, Department of Tourism, Government of Puducherry viz., the 2nd respondent herein, to appoint an Arbitrator for settlement of disputes as per the provisions contemplated under the agreement, however, the Director has not made any proper reply. Hence, the petitioner seeks for appointment of an arbitrator.

3. I have perused the entire materials on record. In fact, the petitioner has sent a letter to the second respondent and the second respondent has also sent a reply by his letter dated 28.02.2020. But the issue has not been resolved despite the same.

4. As the parties are governed by the contract to resolve the issue before the Arbitrator and as both the parties have agreed for reference, this Court is of the view that appointment of a Chartered Engineer as Arbitrator is necessary to enter upon the reference and conduct arbitration proceedings. Accordingly, the respondents are directed to appoint a Chartered Engineer from the panel of their Department, as an Arbitrator, to enter the reference and conduct the proceedings. On such appointment, the learned Arbitrator shall conduct the proceedings after duly serving notice on the parties and complete the proceedings within a period of six months from the date of entering into reference. The venue of the arbitration will be at Puducherry and the remuneration for the arbitrator shall be borne by both the sides.

5. With the above directions, this Original Petition is allowed.

16.09.2020

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To

1. The Secretary to Government,
Department of Tourism,
Government of Puducherry,
Puducherry - 605 001.

2. The Director,
Department of Tourism,
Government of Puducherry,
23, Ambedkar Salai, Upplam, Puducherry,

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N.SATHISH KUMAR, J.

raja

3. The Managing Director,
Puducherry Tourism Development Corporation Ltd.,
Puducherry.
4. The Project Engineer, Project Cell,
Puducherry Tourism Development Corporation Ltd.,
Puducherry.



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