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

+ ARB.P. 876/2019

SHIVALYA CONSTRUCTION PVT. LTD. Petitioner
Through: Mr. Ankit Malik, Advocate.

versus

UNION OF INDIA
THROUGH EXECUTIVE ENGINEER, CPWD Respondent
Through: Ms. Suparna Srivastava and Ms.
Nehul Sharma, Advocates.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

% **ORDER**
06.01.2020

I.A. 18514/2019

Allowed, subject to just exceptions.

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1. Issue notice. Learned standing counsel for the respondent accepts notice.
2. The petitioner is seeking appointment of an arbitrator under Section 11(6) of the Arbitration and Conciliation Act. The petitioner has claims to the tune of Rs.42,10,906/-.
3. The arbitration agreement between the parties is not disputed. The petitioner invoked the arbitration vide notice dated 24th May, 2019. However, the petitioner was informed that the petitioner has to first approach the Dispute Redressal Committee (DRC) in terms of the arbitration agreement. The petitioner, therefore, issued fresh notices dated 03rd August, 2019 and 28th August, 2019 but the DRC was not constituted by the

respondent.

4. Learned counsel for the petitioner submits that the respondent has neither constituted the DRC nor appointed the arbitrator. It is further submitted that the respondent is not empowered to appoint an arbitrator in view of the recent judgment of the Supreme Court.

5. The petition is allowed and Mr.Rajiv Kapoor, Advocate(Mobile No.9811300200) is appointed as a sole arbitrator to adjudicate the claims and counter claims of the parties.

6. The arbitration shall be conducted under the aegis of Delhi International Arbitration Centre (DIAC).

7. The learned arbitrator shall ensure the compliance of Section 12 read with Fifth, Sixth and Seventh Schedule of Arbitration and Conciliation Act, 1996 before commencing the arbitration.

8. The fee of the learned arbitrator shall be in accordance with the Schedule of fees prescribed under the Delhi High Court Arbitration Centre (Administrative Costs and Arbitrators' Fees) Rules.

9. Copy of this order be sent to Delhi International Arbitration Centre (DIAC).

10. Copy of this order be sent to the learned arbitrator.

11. Copy of this order be given *dasti* to counsels for the parties under the signature of the Court Master.

J.R. MIDHA, J.

JANUARY 06, 2020

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