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

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Date of decision: 11.03.2020

+ ARB.P. 148/2020

LARSEN AND TOUBRO LTD

..... Petitioner

Through Mr. Sameer Parekh, Mr. Tanuj
Agarwal, Ms. Swati Bhardwaj and
Ms. Rashi Gupta, Advocates.

Versus

STEEL AUTHORITY OF INDIA,

..... Respondent

Through Mr. Shalwal Srivastava, Advocate.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JYOTI SINGH, J. (ORAL)

1. This is a petition under Section 11(6) of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as 'Act') for appointment of Arbitrator(s).
2. Learned counsel for the respondent, on instructions, from the respondent submits that the respondent has no objection to a three Member Arbitral Tribunal being appointed.
3. Disputes between the parties arose out of a Contract dated 07.03.2008.
4. The Agreement contains an Arbitration Clause which reads as under:-

"Article 10.1 Arbitration" (Reference GCC Clause 6)

Any disputes, differences, whatsoever, arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this Contract shall be settled between the Employer and the Contractor amicably. If

however, the Employer and the Contractor are not able to resolve their disputes/ differences amicably as aforesaid the said disputes/differences shall be settled by Conciliation, failing which, through Arbitration.

Conciliation shall be resorted to prior to invoking Arbitration. The applicable rules for conciliation preceding shall be that of "SCOPE" forum of Conciliation and Arbitration" (SCFA). The Arbitration Clause is to be invoked by the parties to the Contract only on failure of conciliation proceedings.

The arbitration shall be governed in accordance with The Arbitration and Conciliation Act, 1996 (hereinafter referred to as the "Act"). The language of Arbitration shall be English.

Subject to the stipulations made hereinabove. Arbitration shall be conducted as per forum specified below:

Arbitration of Contracts, with Indian parties, shall be governed by the Rules of Indian Council of Arbitration (ICA)/"SCOPE Forum of Conciliation and Arbitration" (SCFA) as agreed by the party. The Venue shall be New Delhi.

During the pendency of the Conciliation or Arbitration proceedings both the parties (i.e. the Contractor and the Employer) shall continue to perform their contractual obligations.

The arbitral tribunal shall give reasons for its award. The tribunal shall apportion the cost of arbitration between the parties, the award rendered in any arbitration hereunder shall be final and binding upon the parties agree that neither party shall have any right to commence or maintain any suit or legal proceeding concerning any dispute under this agreement until the dispute

has been determined in accordance with the arbitration proceeding provided for herein and then only to enforce or facilitate the execution of an award rendered in such arbitration.

The Language of Arbitration shall be English.

The Court of Asansol, West Bengal, India (with exclusion of all other Courts) shall have exclusive Jurisdiction over all matter of Dispute.”

5. The Arbitration Clause envisages a three Member Arbitral Tribunal to adjudicate the disputes between the parties.
6. Learned counsels for the parties jointly agree that the petitioner will nominate its Arbitrator within a period of one week from today and respondent will nominate its Arbitrator within a week thereafter.
7. The two Arbitrators would then appoint a third presiding Arbitrator.
8. The learned Arbitrators so appointed will give disclosure under Section 12 of the Act before entering upon reference.
9. Fee of the Arbitrator shall be fixed as per Fourth Schedule of the Act.
10. With the consent of the parties, the present petition is disposed of recording the stand of the learned counsels for the parties, on instructions from the petitioner and the respondent, respectively.

JYOTI SINGH, J

MARCH 11, 2020

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