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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 799/2019

NATIONAL BRAIN RESEARCH CENTRE Petitioner

Through Mr.Abinash K Mishra, Adv.

versus

PRASAR BHARTI & ANR. Respondent

Through Mr.Rajeev Sharma with Mr.Saket Chandra, Advs for R-1.

Mr.Ashish Chauhan, Adv for R-2.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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12.02.2020

1. The present petition under Section 11(6) Arbitration and Conciliation Act, 1996 seeks appointment of an Arbitrator to adjudicate the disputes and differences which have arisen between the parties in respect of agreement dated 01.06.2010.

2. Learned counsel for the petitioner submits that as a consequence of the aforesaid agreement entered into between the petitioner and the respondent no.1, the respondent no.1 was authorised to engage a contractor and has accordingly engaged the respondent no.2. He further submits that since the respondent no.2 has invoked arbitration against the respondent no.1, the respondent no.1 has now made certain claims from the petitioner, which are vehemently disputed by the petitioner. He, therefore, contends that it is thus apparent that disputes arisen between the parties need to be referred to

arbitration in terms of Clause 4.8 of the aforesaid agreement.

3. Learned counsel for the respondent no.1 does not oppose the aforesaid position and fairly admits that there is an arbitral clause and, therefore, the disputes between the parties need to be referred to arbitration.

4. Learned counsel for the respondent no.2 has filed a reply vehemently opposing the petition on the ground that there is no privity of contract between the petitioner and the respondent no.2. He further submits that, in any event, there is no direct dispute between the petitioner and the respondent no.2 and, therefore, the respondent no.2 is not a necessary party to the proposed arbitration proceedings between the petitioner and the respondent no.1.

5. Having considered the submissions of the parties and in the light of the stand taken by the petitioner as also the respondent no.1, the petition is allowed and Justice M.R. Agnihotri (Retd.) (09417062028) is appointed as the Sole Arbitrator to adjudicate the disputes and differences which have arisen between the petitioner and the respondent no.1 arising out of the agreement dated 01.06.2010. It will however be open for the respondent no.2 to place its stand before the learned Arbitrator, if it so desires and in that event, the learned Arbitrator will also consider the stand of the respondent no.2 while rendering the award.

6. Before commencing arbitration proceedings, the Arbitrator will ensure compliance of Section 12 of the Arbitration and Conciliation Act, 1996.

7. The arbitration shall be conducted under the aegis of Delhi

International Arbitration Centre (DIAC). The fees 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.

8. A copy of this order be sent to DIAC as also to the learned Arbitrator.

REKHA PALLI, J

FEBRUARY 12, 2020/sr