

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.57 of 2020

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Mrs. Mithilesh Singh, wife of Shri J.P.N.Singh, Proprietor of M/s Maa Devi HP Gas Agency, North of High School, Ismela, Sitalpur, P.S.- Dighwara, District- Saran at present Mohalla-Bahadurpur, P.S.- Bahadurpur, District- Patna.

... .. Petitioner/s

Versus

1. M/s Hindustan Petroleum Corporation Limited through its Chairman-Cum-Managing Director, 7, Jamshedji Tata Road, Mumbai-400020
2. The Chairman-Cum-Managing Director, Hindustan Petroleum Corporation Limited, 17 Jamshedji Tata Road, Mumbai-400020
3. The Deputy General Manager, Hindustan Petroleum Corporation Limited, North Central Zone, L.P.G. Division, Plot No.1, Nehru Enclave, Gomati Nagar, Lucknow (U.P.)-226010
4. The Chief Regional Manager, Patna L.P.G. Regional Officer, Hindustan Petroleum Corporation Limited, 6th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna-800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Imteyaz Ahmad, Advocate Mr. Nitesh Kumar, Advocate Mr. Vaishnavi Singh, Advocate
For the Respondent/s	:	Dr. Pankaj, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice through Video Conferencing from His residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 07-07-2021

Vide order dated 10th of March, 2021, the dispute inter se the parties were referred for arbitration with the appointment of Hon'ble Mr. Justice Dinesh Kumar Singh, a former Judge of this Court, as an Arbitrator. The learned



Arbitrator has passed order dated 5th of April, 2021, which, is quoted hereinunder:-

“Pursuant to order dated 10.03.2021 passed by Hon'ble the Chief Justice Patna High Court in Request Case No. 57 of 2020, I have been with the consent of parties, appointed as an Arbitrator in exercise of powers under Section 11(6) of the Arbitration and Conciliation Act, 1996 for adjudication of the disputes between the parties interse arising out of an Agreement dated 30.11.2004.

The matter has been fixed today on the point of acceptance of Reference and the proceedings have been conducted through virtual mode. None of the parties complained any technical interruption in the course of proceedings.

I have perused the documents and also the order dated 10.03.2021 passed in Request Case No. 57 of 2020. In the course of examination of the Records, specially the order dated 10.03.2021 by which the matter has been referred for my Arbitration, it transpired that the Husband of the claimant (which has been disclosed in the order) has a long and close acquiescence with me.

Considering the long relationship, I am of th considered opinion and have reasons to believe that justifiable grounds do exists which may create a doubt with regard to the independence and impartiality of the proceedings. My acceptance of the instant Reference would render the proceedings open to challenge on the grounds



set forth under Section 12 of the Arbitration and Conciliation Act, 1996; according to which, the contemplated Arbitrator should not be in any manner connected with any of the parties or should have shared any relationship with, or interest in any of the parties.

Situated thus, in view of my close and long proximity with the husband of the claimant, I am unable to persuade myself to accept the instant Reference and therefore, would record my recusal from the present proceedings to ensure the independence and impartiality of the proceedings.

Since the Reference itself is being returned, it is made clear that there is no question of acceptance of any fees in connection with the proceedings or any Charges arising out of the proceedings either by the Tribunal or the office attached the Tribunal.

In view of aforesaid, let this order be communicated to learned Registrar General, Patna High Court for placing the same before Hon'ble the Chief Justice.

Let this order be communicated to learned counsels for both the parties through their respective Emails.”

In view of the same, with the consent of the parties, the dispute inter se the parties arising out of the Agreement dated 30.11.2004 is referred to the arbitration of Hon'ble Mr. Justice Hemant Kumar Srivastava, a former Judge of this Court.



Accordingly, with the consent of the parties, Hon'ble Mr. Justice Hemant Kumar Srivastava (Former Judge of this Court) is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement dated 30.11.2004 entered into between the parties to the lis.

All pleas and issues raised, on merits, are left open to be considered and decided by the learned Arbitrator.

Learned Arbitrator shall be entitled to fee as per the schedule.

Since the dispute arises out of an agreement of the year 2004, the hearing be expedited.

Parties undertake to fully cooperate and not take any unnecessary adjournment.

The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode.

It is expected of the learned Arbitrator to decide the issues expeditiously.

Registrar (List) is directed to communicate the order to the learned Arbitrator.

Learned counsel for the parties also undertake to



communicate the order to the learned Arbitrator. In fact, they volunteered to appear before him, through digital mode on 2nd of August, 2021 and apprise him of the passing of the order.

Parties shall file their statement of claims before the learned Arbitrator on such date of hearing which he may fix, as per mutual convenience.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

Sujit/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	14.07.2021
Transmission Date	

