

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.46 of 2021

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M/s AKA Logistics Private Limited a company incorporated under the provisions of The Companies Act, 1956, having its registered office situated at 1st Floor, Chitrakoot Building, 230A, A.J.C. Bose Road, P.S. Bhowanipur, Kolkata- 700 020, West Bengal through its Authorized signatory Shubhasish Banerjee aged about 40 years son of Late Balai Lal Banerjee Residing at Bhattacharjee Apartment, Sarkar Bagan, Nawabganj, Ichapur, P.S.- Noapara, District- North Twenty Four Parganas and working for gain at the afore- said address.

... .. Petitioner/s

Versus

1. Bhartiya Rail Bijlee Company Limited (BRBCL) having its head office at 1st Floor, Bidyut Bhawan-II, Baily Road, P.S. Kotwali, District Patna and project office at Nabinagar Thermal Power Project, H-Type, P.S.- Khaira, Nabinagar, District- Aurangabad, Bihar- 824 303.
2. The Chief Executive Officer, Bhartiya Rail Bijlee Company Limited (BRBCL), Nabinagar Thermal Power Project, H-Type, P.S.- Khaira, Nabinagar, District- Aurangabad, Bihar- 824 303.
3. The Manager (CS), Bhartiya Rail Bijlee Company Limited (BRBCL), Nabinagar Thermal Power Project, H-Type, P.S.- Khaira, Nabinagar, District- Aurangabad, Bihar- 824 303.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Ranjan, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 24-11-2021

As per office report, respondents 1 and 2 stand served.

Despite repeated calls, none appears on behalf of



the respondents.

The Court will proceed ex parte.

This application under Section 11(6) of the Arbitration and Conciliation Act, 1996 has been filed praying for appointment of an Arbitrator to adjudicate the dispute between the parties.

Parties to the lis entered into a written agreement i.e. purchase order dated 20th of November, 2018. The said purchase order itself stipulates a condition, binding the parties to the terms stipulated in the general conditions of the contract for civil works, which, inter alia, contains the dispute redressal mechanism (page-29) through the process of arbitration.

Petitioner invoked the arbitration clause vide a written communication dated 23rd of April, 2021 (page-27), to which there is no response.

Today, there is no dispute about-(a) the legality, validity and binding effect of a written agreement dated 20th of November, 2018 and subsequently entered into between the parties to the lis; (b) the existence of arbitration clause contained therein; (c) the existence of dispute(s) arising there from; (d) the dispute arisen out of the agreement being civil in nature; (e) no legal impediment in the adjudication of



the dispute by the learned Arbitrator; (f) Petitioner having exhausted the channel available for resolution of dispute; (g) the respondent having failed to appoint an Arbitrator pursuant to the invocation of the arbitration clause by the petitioner.

As such, in view of the arbitration clause contained in the agreement, I find that the matter requires arbitration and, accordingly, invoking Section 11(6) of the Arbitration and Conciliation Act, 1996, Hon'ble Mr. Justice Rakesh Kumar, Former Judge of this Court is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement dated 20th of November, 2018 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 of the Act.

Since the dispute arises out of an agreement of the year 2018, the hearing be expedited.

Parties are directed 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.

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

Learned counsel for the parties to communicate the order to the learned Arbitrator. Also, parties are directed to appear before him, through physical/digital mode on 20th of December, 2021 and apprise him of passing of this 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.

The Request Petition stands disposed of in the above terms.

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

(Sanjay Karol, CJ)

K.C.Jha/DKS/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.12.2021
Transmission Date	

