

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.48 of 2021

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1. M/s Rajhans Transport, Through the proprietor Vidyapati Singh (Male) aged about 54 years, Son of Late Ganpat Singh, Resident of Flat No. 802, Gharounda Complex, Jagdeo Path More, P.S. - Khajpura, Dist. - Patna.
 2. Vidyapati Singh, Son of Late Ganpat Singh, Resident of Flat No. 802, Gharounda Complex, Jagdeo Path More, P.S. - Khajpura, Dist. - Patna.

... .. Petitioner/s

Versus

1. The Bihar State Warehousing Corporation, Through the Managing Director, Bihar, Patna, B-2, 1st Floor, Maurya Lok Complex, Patna.
2. The Managing Director, Bihar State Warehousing Corporation, B-2, 1st Floor, Maurya Lok Complex, Patna.
3. The General Manager (Regional), Food Corporation of India, 9th Floor, Mahavir Temple, Ranchi (Jharkhand).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Ghosarvey, Advocate
For the Respondent/s : Mr. Mithilesh Kumar Rai, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 27-10-2021

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-

“1. (I) For appointment of an independent and impartial Arbitrator to adjudicate the entitlement of petitioner of admitted dues of the petitioner to the tune of Rs. 3,28,92,701/- (Three Crores Twenty Eight Lacs Ninety Two Thousand Seven Hundred One) with interest till the payment is made for the work done from the period of May, 2011 to January, 2013 in view of the order dated 27.08.2019 passed in SLP (Civil) No. 20146/2019 passed by the Hon’ble Supreme Court and in view of the order dated 12.03.2019



passed by the Division Bench of this Hon'ble court in LPA No. 1071/2018 (Arising out of the order dated 02.07.2018 passed in CWJC No. 6891/2013) whereby liberty has been granted to the petitioner to initiate appropriate proceedings in accordance with law to have the dispute adjudicated.

(ii) For any other relief/reliefs, which the petitioner is entitled or this Hon'ble Court deems fit and appropriate in given facts and circumstances of this case.”

The agreement dated 04.08.2010 was entered into between the Bihar State Warehousing Corporation, Patna (Respondent No. 1) and M/s Rajhans Transport (Petitioner No. 1).

As such, Petitioner No. 2, namely, Vidyapati Singh, son of Late Ganpat Singh, Resident of Flat No. 802, Gharounda Complex, Jagdeo Path More, P.S.- Khajpura, Dist- Patna; Respondent No. 2 namely the Managing Director, Bihar State Warehousing Corporation, B-2, 1st Floor, Maurya Lok Complex, Patna and Respondent No. 3, namely, The General Manager (Regional), Food Corporation of India, 9th Floor, Mahavir Temple, Ranchi (Jharkhand) are deleted from the array of parties.

Registry to make necessary correction in the memo of parties, both on the digital as also the physical file.



The agreement dated 04.08.2010 contains the arbitration clause, which is reproduced as under:-

“31. All disputes and differences arising out or in any way touching or concerning this agreement whatsoever (except as to any matter the decision of which is expressly provided for in this agreement) shall be referred to the sole arbitration of the Managing Director of any person appointed by the Managing Director. The award on such arbitration shall be final and binding on the parties to this agreement.”

In view of the provisions of the Arbitration and Conciliation Act, 1996, the Managing Director cannot be appointed as a sole arbitrator to adjudicate the dispute. As such, the present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator.

The petitioner has already approached the Respondent No. 1 namely Bihar State Warehousing Corporation, Patna vide communication dated 26th of July, 2021 (Annexure-9), invoking the arbitration clause, seeking appointment of an Arbitrator. However, there is no response to such communication.

As such, the dispute having emanated out of an



agreement dated 04.08.2010, civil in nature, needs to be referred to an Arbitrator for adjudication.

There is no legal impediment in the adjudication of the dispute by the learned Arbitrator.

As such, Hon'ble Mr. Justice Rakesh Kumar, a former Judge of this Court is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement dated 04.08.2010 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 2010, 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.



Joint 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 22nd of November, 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.

The Request Petition stands disposed of in the above terms.

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

(Sanjay Karol, CJ)

P.K.P./Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	01.11.2021
Transmission Date	

