

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.72 of 2020

=====

Ramesh Kumar, Son of Sattan Singh, Resident of Mohalla-Gulzarbagh, Police Station-Agamkuan, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Managing Director, Bihar State Building Construction Corporation Ltd., Rajbanshi Nagar, Near Rajbanshi Nagar Hospital, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Uma Shankar Tiwary, Advocate
For the Respondent/s : Mr. Kumar Abhimanyu Pratap, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 18-08-2021

This application has been moved seeking appointment of an Arbitrator invoking the powers of this Court under Section 11(6) of the Arbitration and Conciliation Act, 1996.

There is no dispute about-(a) the legality, validity and binding effect of the agreement dated 20.03.2014 entered into between the parties to the lis; (b) the existence of arbitration clause contained therein; (c) the existence of dispute(s) arisen therefrom and (d) the petitioner having put the party to notice of his intent seeking arbitration under the agreement.

Learned counsel invites attention of this Court to Clause 25 of the Agreement dated 20.03.2014. On 02.05.2019, notice invoking the arbitration clause with respect to the disputes arisen out of the said agreement was also issued to Respondent No. 2, namely, the Managing Director, Bihar State Building



Construction Corporation Ltd. As per the averments made in the petition, despite the same, this process was not initiated. Also Arbitrator was not appointed.

The only objection taken is non-joinder of the parties.

It is not in dispute that clause 25 of the agreement containing the procedure for settlement of disputes and arbitration stands complied with. Insofar as objection of non-joinder of the parties is concerned, the same is not tenable in law for the parties to the agreement are admitted as parties to the *lis*.

As such, there is no legal impediment for this Court in entertaining the present petition and allowing the same.

Hence, this Court is inclined to allow the petition by appointing an arbitrator.

As such, Hon'ble Mr. Justice Shivaji Pandey, Retired Judge of the Patna High Court, Patna is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement dated 20.03.2014 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 fees as per Schedule IV of the Arbitration Act.

Since the dispute arises out of an agreement of the year 2014, 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 adjudicate the disputes 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 13th of September, 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)

Ashwini/Sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.08.2021
Transmission Date	

