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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 07.12.2021***

+ ARB.P. 899/2021

M/S INDERJIT MEHTA CONSTRUCTIONS PVT
LTD

..... Petitioner

Through Mr. Praveen Chauhan, Adv.

versus

UNION OF INDIA & ANR.

.... Respondents

Through Mr. Harish Vaidyanathan Shankar,
CGSC with Mr. Syed Husain Adil
Taqvi, GP, Mr. Karan Chhibber and
Ms. S. Bushra Kazim, Advs.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (oral)

1. The present petition has been filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 seeking appointment of sole Arbitrator to adjudicate the disputes with respondents.

2. Petitioner is a private limited company registered under the Companies Act, 1956 and is in the business of construction.

3. Respondent Nos.1 and 2 are State under Article 12 of the Constitution of India and are department of UOI under the Ministry of Defence. respondent No.1 is Accepting Officer of the subject Contract and respondent

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No.2 is the Appointing Authority of Arbitrator.

4. As per the averments made in the present petition, petitioner and respondent No.1 had entered into a contract for Completion of Balance Work for Construction of Dwelling Units including Allied Services for Officers, JCOs/OR's at Kirkee bearing C.A. NO. DGMAP/PHASE-II/PKG-23/A/R&C/04 of 2015-2016. After completion of the work, certain disputes arose and in respect to the same, a notice dated 22.06.2019 invoking arbitration was issued by the petitioner to DGMAP vide letter dated 22.06.2019 but no response was received from the respondents. Again a letter dated 27.07.2019 was issued to respondent No.2 for appointment of arbitrator and the same was received by the respondent No.2 on 30.07.2019. However, despite these requests, respondent No.2 failed to appoint any Arbitrator.

5. Pertinently, petitioner had thereafter approached this Court seeking appointment of Arbitrator [Arbitration Petition No.691 of 2019] and vide order dated 24.01.2020, this Court had appointed **Mr. K.B Rai, former Chief Engineer, Punjab (PWD)** as Arbitrator. It was further directed by this Court that Arbitration shall be conducted under the aegis of DIAC. However, the arbitral proceedings couldn't be completed, as the learned

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Arbitrator expired on 04.05.2021.

6. Learned counsel for petitioner submits that a substituted Arbitrator may be appointed to adjudicate the dispute between the parties and prays that the substituted Arbitrator may not be appointed through DIAC.

7. Learned CGSC appearing on behalf of respondent submits that he has no objection to the appointment of sole Arbitrator by this Court.

8. In view of the above, the present petition is allowed. Accordingly, **Mr. Justice (Retd.) Vikramjit Sen (Mobile: 8447333366)** is appointed sole Arbitrator to adjudicate the dispute between the parties from the stage where it was left by the earlier Arbitrator.

9. The fee of the learned Arbitrator shall be governed by the Fourth Schedule of the Arbitration and Conciliation Act, 1996.

10. The learned Arbitrator shall ensure compliance of Section 12 of Arbitration and Conciliation Act, 1996 before commencing the arbitration.

11. The present petition stands disposed of accordingly.

12. A copy of this order be sent to the learned Arbitrator for information.

(SURESH KUMAR KAIT)
JUDGE

DECEMBER 07, 2021/rk

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