

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.6 of 2022

=====

M/s Dayanand Prasad Sinha and Co. through its Partner Dayanand Prasad Sinha, Gender - Male, aged about - 77 Years, Son of Late Harbanshi Lal, Resident of Janta Path, Kankarbagh Road, P.S.- Kankarbagh, District and Town - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Bihar -Cum-The Chairman, Patna Smart City Ltd., Patna.
3. The Managing Director, Patna Smart Ltd., 2nd floor, Block - C, Mauryalok Complex, Budh Marg, Patna.
4. The Chief General Manager, Patna Smart City Ltd., 5th floor, Biscomaun Tower, Patna.
5. The Sr. Manager (Tech.), Patna Smart City Ltd., 5th floor, Biscomaun Tower, Patna.
6. The Manager (M and E) and Project-in-Charge, 2nd floor, Block -C, Mauryalok Complex, Budh Marg, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Lal Babu Singh, Advocate Mr. Umesh Kumar Gupta, Advocate
For the Respondent/s	:	Mr.Yogendra Prasad Sinha (AAG 7) Mr. Rajeev Kumar Sinha, AC to AAG-7
For Respondents 3 to 6		Mr. Ranjeet Kumar, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 27-04-2022

Petitioner has prayed for the following relief(s):-

“For appointment of Arbitrator for deciding the dispute and difference between the petitioner and the respondents in connection with the work of “Development of Birchand Patel Marg as Model Road in ABD Area with Streetscape Design, Beautification,



Landscaping, Junction Improvement and Infrastructure upgrades under Smart Cities Mission” vide Agreement dated 11.02.2019 and Supplementary Agreement dated 17.06.2020.

On 30th of March, 2022, we had passed the following order:

“Learned counsel for the petitioner undertakes to supply complete paper-book to Shri Ranjeet Kumar, learned counsel appearing on behalf of respondent Nos.3 to 6.

Learned counsel for the petitioner invites our attention to the written agreement dated 11.02.2019 and supplementary agreement dated 17.06.2020, entered into between the parties to the lis, containing arbitration clause (Clause-26, page-24) as also notice dated 24.11.2021 (page-57).

Notice.

Shri Ranjeet Kumar, learned counsel, appears on behalf of respondent Nos.3 to 6.

Reply be filed within two weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

List on 27th of April, 2022.”

Despite opportunity afforded vide order dated 30th of March, 2022, response not filed.

Learned counsel for the petitioner invites our attention to the written agreement dated 11.02.2019 and supplementary agreement dated 17.06.2020, entered into between the parties to the lis, containing arbitration clause (Clause-26, page-24) invoked vide



notice dated 24.11.2021 (page-57).

It is pleaded that the respondents have neither settled the dispute nor responded to the said notice. The disputes are civil in nature, arising out of an agreement dated 11.02.2019.

Today, there is no dispute about-(a) the legality, validity and binding effect of a written agreement dated 11.02.2019 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 therefrom; (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, Hon'ble Mr. Justice Vikash Jain, Former Judge of this Court is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement dated 11.02.2019 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 2019, 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 30.05.2022 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/-

AFR/NAFR	
CAV DATE	
Uploading Date	09/05/2022
Transmission Date	

