

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.17 of 2022

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M/s Esskay Builders, a sole proprietorship firm constituted C/2, Konark Splender, Vadagonsheri, Pune, Maharashtra-411014, through its authorized signatory Sanjay Malhotra aged 58 years, son of Late Yash Raj Malhotra, Resident of E-601, Marvel Bounty, Tupe Patil Road, Hadpasar, Pune City, District-Pune, Maharashtra-411028.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Public Health Engineering Dept.
2. The Chief Engineer, Public Health Engineering Department, Muzaffarpur.
3. The Superintending Engineer, Public Health Engineering Department, Chapra.
4. The Executive Engineer, Public Health Engineering Department, Chapra.
5. The Assistant Engineer, Public Health Engineering Department, Chapra.
6. The Certificate Officer cum Additional Collector, Saran, Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Apurv Harsh, Advocate

For the Respondent/s : Mr. S. Raza Ahmad (Aag 5)

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 11-05-2022

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.

Petitioner and the respondents entered into a written agreement dated 06.10.2013. The said agreement contains an arbitration clause-25 for settlement of disputes. The petitioner, vide communication dated 06.12.2021 to the Superintending



Engineer, Public Health Engineering Department, Chapra (Annexure-13, Page 121) and communicated dated 23.12.2021 to the Zonal Chief Engineer, Public Health Engineering Department, Muzaffarpur (Annexure- 13 Page 123), has requested them for appointment of an Arbitrator.

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 the said agreement dated 06.10.2013.

Today, there is no dispute about-(a) the legality, validity and binding effect of a written agreement dated 06.10.2013 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, Hon'ble Mr. Justice Hemant Kumar Srivastava, Former Judge of this Court, is appointed as learned



Arbitrator to adjudicate all disputes arising out of agreement dated 06.10.2013 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 2013, 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 immediately 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 06.06.2022 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)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	20.05.2022
Transmission Date	

