

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.33 of 2022

=====

Broad Son Commodities Private Limited, a Company incorporated under the provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S. Koilwar, District - Bhojpur (Ara), through its Director Ashok Kumar aged about 66 years (male), son of Ram Chandra Saw, resident of village/Mohalla - Pareo, P.S. Bihta, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Commissioner - Cum - Principal Secretary, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna - 800001.
2. The Principal Secretary Cum Commissioner Mines, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna - 800001.
3. Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Deputy Director, Mines and Geology, Patna Circle, Patna.
5. The District Magistrate - Cum - Collector Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Suraj Samdarshi, Advocate Mr. Avinash Shekhar, Advocate Mr. Ranjan Prakash, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha, GA 7 Mr. Naresh Dikshit, Spl. PP Mines.

=====

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 16.09.2015. The said agreement contains an



arbitration clause. The petitioner, vide notice dated 31.01.2022 (Annexure-29 Page 213), has invoked the arbitration Clause-9 of the notification No. 2887 dated 22.07.2014 (Annexure-2, Page 65), seeking 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 an agreement dated 16.09.2015.

The only objection raised by Shri Naresh Dikshit, learned counsel appearing on behalf of the respondents is non-existence of the arbitration clause in the agreement, which, in fact, is the extension of the old agreement containing an arbitration clause.

Today, there is no dispute about-(a) the legality, validity and binding effect of a written agreement dated 16.09.2015 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 Deepak Gupta, Former Judge of Hon'ble the Supreme Court of India, Mobile No. 9816533333, is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement dated 16.09.2015 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 2015, 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	

