

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.41 of 2022

=====

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

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Road Construction Department, Visheshwaraiya Bhawan, Bailey Road, Patna.
2. The Engineer-in-Chief, Road Construction Department, Visheshwaraiya Bhawan, Bailey Road, Patna.
3. The Chief Engineer, South Bihar (Transport), Road Construction Department, Bihar, Patna.
4. The Superintending Engineer, Central Circle, Road Construction Department, Chajjubagh, Patna.
5. The Executive Engineer, Road Construction Department, Road Division, Biharsharif.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Lal Babu Singh, Advocate Mr. Umesh Kumar Gupta, Advocate
For the Respondent/s	:	Mr. Uday Shankar Sharan Singh, GP-19

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 20-04-2022

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 19.04.2011. The said agreement contains an arbitration clause. The petitioner, vide communication dated 02.11.2021 to the Superintending Engineer (Annexure-4, Page



25), communicated dated 24.11.2020 to the Chief Engineer (Annexure- 5 Page 28) and notice dated 12.01.2022 (Annexure- 6 Page 32), has invoked the arbitration Clause-25 (Annexure-6, Page 32) 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 19.04.2011.

Today, there is no dispute about-(a) the legality, validity and binding effect of a written agreement dated 19.04.2011 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 Navin Sinha, Former Judge of Hon'ble Supreme Court of India is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement dated 19.04.2011 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 2011, 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)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	09.05.2022
Transmission Date	

