

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.53 of 2022

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M/S Maa Sita Fuel Centre, a proprietorship firm Having its office at Bhelahi, Ward No 19, At, P.O. and District- Supaul through its proprietor Ekta Kumari, Wife of Kaushal Kumar Choudhary, Resident of At and P.O.- Maheshpur, Police Station- Pipra, District- Supaul.

... .. Petitioner/s

Versus

1. M/S Bharat Petroleum Corporation Ltd. Through its Chairman and Managing Director, Bharat Bhawan, 4 and 6 Currimbhoy, Ballard Estate, P.B. No. 688 Mumbai- 400001
2. The Head Retail (East) Bharat Petroleum Corporation Limited, Bharat Bhawan, Plot No. 31, Prince Gulam Md. Shah Road, Golf Green Post Box No.16201 and 16204 Kolkata- 700095
3. The Territory Manager (Retail)- Barauni, Bharat Petroleum Corporation Limited, Barauni (Retail) Territory, NH- 31, P.O.- Paprour Begusarai (Bihar)

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Mukesh Kumar, Advocate
For the Respondent/s	:	Mr.Siddhartha Prasad, Advocate
		Mr. Om Prakash Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 31-08-2022

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 (hereinafter referred to as the 'Act').

Petitioner and the respondents entered into a written agreement dated 29.03.2013 (Annexure-1 Page 18). The said agreement contains an arbitration Clause- 18 (Page 28) for settlement of disputes, which was invoked by the petitioner and in response thereto, the respondents have expressed their



inability to appoint the arbitrator vide communication dated 06.03.2020 (Annexure-10, Page 146). Again petitioner's legal notice dated 03.01.2022 met with the same fate as the respondents have expressed their inability to appoint the arbitrator vide communication dated 15.01.2022 (Annexure-12, Page150).

The refusal to appoint the arbitrator is not on account of non-existence of dispute, but, however, on account of the legal disability. As such, present petition not opposed and is allowed.

Today, there is no dispute about-(a) the legality, validity and binding effect of a written agreement dated 29.03.2013 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 respondents 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, Patna High Court, Mobile No. 9431022230, is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement dated 29.03.2013 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, it is expected of the learned Arbitrator to decide the issues expeditiously.

Parties are directed to fully cooperate and not take any unnecessary adjournment.

The proceedings shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode.

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 26.09.2022 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	09.09.2022
Transmission Date	

