

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.54 of 2022

=====

M/S Tirupati Construction and Infrastructure through its Partner Sri Rajmukh Kumar Rai, Male, aged 46 years, son of Late Ram Naresh, Resident of House no. L-6/424, Ashiyana Angan, Alwar, By-Pass Road, Bhiwadi, District-Alwar (Rajasthan).

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Building Construction Department, Government of Bihar, Nirman Bhawan, Bailey Road, Patna.
2. The Superintending Engineer, Building Construction Department, Government of Bihar, Nirman Bhawan, Bailey Road, Patna.
3. The Superintending Engineer, Building Construction Department, South Bihar Circle, Punai Chak, Patna.
4. The Executive Engineer, Building Construction Department, Government of Bihar, Patna. Building Construction Division, Near Fire Brigade Office, Near Police Line, Lodipur, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Uma Shankar Tiwary, Advocate
For the Respondent/s : Mr.Uday Shankar Sharan Singh, GP 19

=====

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 05.08.2017 (Annexure-1 Page 19). The said agreement contains an arbitration clause- 25 (Page 95) for settlement of disputes, which the petitioner invoked, vide legal



notice dated 10.06.2021 to the Executive Engineer, Patna Building Constructions Division, Near Fire Brigade Office, New Police Line, Patna (Annexure-2, Page 132); notice dated 03.12.2021 to the Superintending Engineer, Building Construction Department, South Bihar Circle, Punaichak, Patna (Annexure-3 Page 136) and notice dated 20.12.2021 to the Chief Engineer, Building Construction Department, Government of Bihar, Nirman Bhawan, Patna for appointment of an Arbitrator to adjudicate the dispute between the parties.

Today, there is no dispute about-(a) the legality, validity and binding effect of a written agreement dated 05.08.2017 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 Aditya Kumar Trivedi, Former Judge, Patna High Court, Mobile No. 9473400262, is



appointed as learned Arbitrator to adjudicate all disputes arising out of agreement dated 05.08.2017 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 2017, 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	

