

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.61 of 2022

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M/s. Modern Transformers Pvt. Ltd. Company registered under the Companies Act, 1956 having its Registered Office at E- 42 Shastri Nagar, New Delhi, PIN- 110052 through its authorized person and GM Commercial Shri Anuj Mittal, Male, age about 58 years, Son of Kunj Bihari Mittal Resident of U5- 5th Floor Block A, Himalya Tanishq, Raj Nagar Extension, Ghaziabad, Uttar Pradesh- 201017.

... .. Petitioner/s

Versus

1. The South Bihar Power Distribution Company Ltd. Vidyut Bhawan, Baily Road, Patna- 800001.
2. The Managing Director, South Bihar Power Distribution Company Ltd., Baily Road, Patna- 800001.
3. The Chief Engineer (Store and Purchase), South Bihar Power Distribution Company Ltd., Baily Road, Patna- 800001.
4. The General Manager (F and A), South Bihar Power Distribution Company Ltd., Baily Road, Patna- 800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Venkatesh Kirti, Advocate Mr. Sanket, Advocate
For the Respondent/s	:	Mr. Vinay Kirti Singh, Sr. Advocate Mr. Kunal Tiwary, Advocate Mr. A.K. Karn, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 23-11-2022

Heard learned counsel for the parties.

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 was issued Purchase Order dated 10.08.2018 (Annexure-P/2, Page 24). The said Purchase Order



contains an arbitration clause (Clause-20, page-30). The petitioner, invoked the arbitration clause vide communication dated 27.04.2022 (Annexure-P/7, Page- 50), but to no avail.

It is pleaded that the respondents have not settled the dispute till date. The dispute is civil in nature, arising out of the Purchase Order dated 10.08.2018 (Annexure-P/2, Page 24).

Today, there is no dispute about-(a) the legality, validity and binding effect of the Purchase Order dated 10.08.2018 (Annexure-P/2, Page 24), issued to the petitioner; (b) the existence of arbitration clause contained therein; (c) the existence of dispute(s) arising there from; (d) the dispute arisen out of the Purchase Order 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 the dispute; (g) the respondent having failed to appoint an Arbitrator pursuant to the invocation of the arbitration clause by the petitioner.

As such, Sri Kishore Prasad, a retired District & Sessions Judge (Mobile No. 9431668881), is appointed as learned Arbitrator to adjudicate all disputes arising out of Purchase Order dated 10.08.2018 (Annexure-P/2, Page 24).

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 2018, the hearing be expedited.

Parties undertake to fully cooperate and not take any unnecessary adjournment.

The issue of limitation, if any, is left open to be raised before the learned Arbitrator.

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 also undertake to communicate the order to the learned Arbitrator. In fact, they volunteered to appear before him, through digital mode/physical mode on 14.12.2022 and apprise him of the passing of the 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)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	06.12.2022
Transmission Date	

