

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO. 52 OF 2022**

M/s. United Sales Corporation	...	Petitioner
vs.		
Union of India and others	...	Respondents

Mr. Mihir S. Raje for petitioner.

Ms. Apurva Gupte a/w. Ms. Smita Thakur for respondents.

CORAM : MANISH PITALE, J

DATE : 17th NOVEMBER, 2022

P.C. :

1. The petitioner has approached this Court under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of arbitrator in the context of contract bearing C.A. No. CERD/PSN/50 OF 2016-17 executed between the petitioner and the respondents for carrying out civil works and the scope of the contract being 'AUGMENTATION OF FRESH WATER LINES AT NECKALCE AREA AND COLONEL POINT AREA AT PASHAN'.

2. Completion certificate dated 24th September, 2018 was issued to the petitioner on behalf of the respondents and it is thereafter that the disputes arose between the parties.

3. The general conditions of contract, which are applicable to the aforementioned contract in Clause 70 provides for arbitration. The said clause specifies the sole arbitrator as a serving officer having degree in engineering or equivalent. There can be no dispute on the fact that upon amendment of the Act, the aforesaid clause would be hit by Section 12(5) of the Act.

4. The parties before this Court did not dispute the fact that in view of the respondents denying the claims of the petitioner, a dispute had arisen

which would have to be referred to arbitrator. As regards the effect of Section 12(5) of the said Act on the specific arbitration clause applicable to the parties, it is agreed between the parties that if a person, who has an engineering degree with sufficient experience is appointed as an arbitrator, this Court would proceed to allow the present petition.

5. Learned counsel for the respondents, upon instructions, suggested a list from the panel of its arbitrators, from whom an arbitrator could be appointed in the present case. Learned counsel for the petitioner submitted, on instructions, that Shri Raghunath Prasad Tripathi, retired ADG of MES could be appointed as the arbitrator.

6. As agreed between the parties, Shri Raghunath Prasad Tripathi, retired ADG of MES is appointed as the sole arbitrator. His mobile number is **9425138470** and his email id is **trip1961@hotmail.com**.

7. Learned counsel for the respondents undertakes to inform the learned arbitrator about the order passed today.

8. Learned arbitrator is requested to communicate his consent and disclosure statement in terms of Sections 11(8) and 12(1) of the aforesaid Act within four weeks from today to the Registrar (Judicial) of this Court.

9. The fees of the learned Arbitrator shall be fixed in terms of Fourth Schedule to the aforesaid Act.

10. All questions are left open to be decided by the learned arbitrator.

11. Petition stands disposed of in above terms.

(MANISH PITALE, J)

Priya Kambli