

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

ARBITRATION PETITION NO. 176 OF 2022

M/s. Safe Construction Company

...Petitioner

Versus

Union of India & Ors.

...Respondents

* * *

- Mr. Mihir Suhas Raje, for Petitioner.
- Mr. Yashodeep Deshmukh and Ms. Vaidehi Deshmukh, for Respondent Nos. 1 to 5.

* * *

CORAM : MANISH PITALE, J

DATE : 19TH DECEMBER, 2022.

P. C. :

1. By this petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, the Petitioner is praying for appointment of an Arbitrator for resolution of disputes between the parties.

2. The Petitioner was engaged by the Respondents, by executing contract bearing No. CE(AF) G/Thane/05 of 20141-15 for "Provn of Otm Accomodation for 6 ASC and 12 P & SU at pocket C Santacruz at AF Station Mumbai". During execution of the contract, certain disputes arose between the parties. As per the contract the disputes between the parties were to be resolved by the process of Arbitration as specified in clause 70 of the general conditions of the contract.

3. The Petitioner invoked the Arbitration Clause by issuing

communication dated 11th April, 2019, to the Respondents. By communication sent in May, 2019, the Respondent refuted the claims made by the Petitioner. In these circumstances, the Petitioner was constrained to file the present petition.

4. The learned Counsel for the Petitioner submitted that the Arbitration Clause in the present case is hit by Section 12(5) read with the 7th Schedule of the aforesaid Act, as it specifies a Serving Officer of the Respondent to be the sole Arbitrator. It is submitted that this Court may appoint a neutral Arbitrator having requisite qualifications for resolving the disputes between the parties.

5. The Respondents entered appearance through Counsel and filed their affidavit in reply. Although the Respondents have contested the contentions raised on behalf of the Petitioner, without prejudice to such contentions, they have stated that if an Arbitrator is to be appointed, he should be holding a degree of Civil Engineering. The learned Counsel for the Respondent also forwarded a panel of Arbitrators from whom this Court may appoint the sole Arbitrator.

6. The learned Counsel for the Petitioner, on instructions, states that this Court may consider appointing Shri. Satish Chander, retired Additional Director General (ADG) of the Military Engineering Service (MES) as the sole Arbitrator. Since the petitioner has chosen

the name from a panel of Arbitrators forwarded on behalf of the Respondents, this Court is inclined to accept the submission made on behalf of the Petitioner.

7. In view of the above, Mr. Satish Chander, retired ADG of MES is appointed as a sole Arbitrator. The details of the learned Arbitrator are as follows :

Mr. Satish Chander,

Additional Director General, Military Engineering Service.

8. The learned Counsel for the parties shall inform the learned Arbitrator about the order passed today.

9. The learned Arbitrator is requested to communicate his consent and Disclosure Statement as per Section 11(8) read with Section 12(1) of the said Act, to the Registrar (Judicial) of this Court, within four weeks from today.

10. The Fees of the learned Arbitrator shall be as per Schedule IV to the said Act.

11. All questions are kept open to be determined by the learned Arbitrator.

12. The petition stands disposed of.

(MANISH PITALE, J.)