

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.99 of 2022

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M/s. Prachi Construction through its Partner Brajesh Mishra, Gender-Male, aged About-50 Years, Son of Sri Jang Bahadur Mishra, Resident of 104, Sachi Palace, Sahdeo Mahto Marg. Boring Road, P.S.-S.K. Puri, District and Town-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Road Construction Department, Visheshwaraya Bhawan, Bailey Road, Patna.
2. The Engineer-in-Chief, Road Construction Department, Visheshwaraya Bhawan, Bailey Road, Patna.
3. The Chief Engineer (Transport), South Bihar, Road Construction Department, Visheshwaraya Bhawan, Patna.
4. The Superintending Engineer, Road Construction Department, Bhojpur Road Circle, Ara.
5. The Executive Engineer, Road Division, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Lal Babu Singh, Advocate
For the Respondent/s : Mr.Uday Shankar Sharan Singh (Gp19)

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 26-07-2023

Heard learned counsel for the parties.

2. 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.

3. Petitioner and the respondent entered into an agreement dated 07.01.2011 (Annexure-1). The said agreement contains an arbitration clause as Clause-25. The petitioner invoked the said arbitration clause vide communications dated 12.01.2022 (Annexure-



11), 05.03.2022 (Annexure-12) and dated 14.04.2022 (Annexure-13) and notice dated 18.05.2022 for appointment of an arbitrator, but to no avail.

4. It is pleaded that the respondents have not settled the dispute till date and the dispute is of civil in nature.

5. Today, there is no dispute about-(a) the legality, validity and binding effect of the written agreement 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 arising 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 the dispute; (g) the respondent having failed to appoint an Arbitrator pursuant to the invocation of the arbitration clause by the petitioner.

6. As such, Hon'ble Mr. Justice Shyam Kishore Sharma, a former Judge of the Patna High Court, is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement entered into between the parties to the *lis*.

7. All pleas and issues raised, on merits, are left open to be considered and decided by the learned Arbitrator.

8. The learned Arbitrator shall be entitled to fee as



per the schedule of the Act.

9. Since the dispute arises out of an agreement of the year 2011, the hearing be expedited.

10. The issue of limitation, if any, is left open to be raised before the Arbitral Tribunal.

11. Joint Registrar (List) is directed to communicate the order to the learned Arbitrator.

12. Learned counsel for the parties also undertake to communicate the order to the learned Arbitrator.

13. The Arbitral Tribunal shall issue notice to the respondents.

14. The Request Petition stands disposed of in the above terms.

(K. Vinod Chandran, CJ)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	28.07.2023
Transmission Date	

