

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.101 of 2022

Maurya Motors Pvt. Ltd. through its Director Mohan Himmatsingka aged about 68 years (male) son of Late Ram Jivan Himmatsingka registered office Plot No. C- 1 Industrial Area, Patliputra, Police Station - Patliputra, District - Patna - 13.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Social Welfare Department, Govt. of Bihar, Patna.
2. State Society for Ultra Poor and Social Welfare through its Director Department of Social Welfare, Govt. of Bihar 2nd Floor Apna Ghar behind Lalit Bhawan, Bailey Road, Patna - 1.
3. C.E.O.-cum-Project Director, State Society for Ultra Poor and Social Welfare, Department of Social Welfare, Govt. of Bihar 2nd Floor Apna Ghar behind Lalit Bhawan, Bailey Road, Patna - 1
4. The Senior Administrative Officer, State Society for Ultra Poor and Social Welfare, Department of Social Welfare, Govt. of Bihar 2nd Floor Apna Ghar behind Lalit Bhawan, Bailey Road, Patna - 1.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jitendra Prasad Singh, Advocate
		Mr. Rajeev Kumar, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha (GA- 7)

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 01-09-2023

1. 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 & Conciliation Act, 1996.
3. A General Conditions of Contract (GCC) was executed between the petitioner and the respondents on 25.04.2016 (Annexure-2). The said contract contains an arbitration clause as Clause-10.



4. Learned counsel appearing for the respondents, however, objects to the arbitration request, especially pointing out that by Annexure-13 the petitioner was directed to take up alternate remedies, which the petitioner has not availed up till now. As far as the alternate remedy is concerned, the learned counsel would specifically point to Clause 10.1 of Annexure-2 contract.

5. Clause 10.1, as far as this Court can discern, is an attempt to resolve the dispute amicably by direct informal negotiation. Clause 10.2 also says that if within twenty-eight days, the parties have failed to resolve their dispute or difference by mutual consultation, then either the purchaser or the supplier may give notice to the other party of its intention to commence arbitration.

6. After Annexure-13, the petitioner had issued Annexure-14 notice dated 27.04.2022. There is no attempt of any informal negotiation initiated even by the respondent after the notice was received. The receipt of the notice is admitted. In such circumstances, it is only proper that an Arbitrator be appointed to resolve the dispute between the parties.

7. Today, there is no dispute about-(a) the legality, validity and binding effect of the GCC; (b) the existence of



arbitration clause contained therein; (c) the existence of dispute(s) arising there from; (d) the dispute arising out of the Contract being civil in nature; (e) no legal impediment in the adjudication of the dispute by the learned Arbitrator; (f) the respondents having failed to settle the dispute.

8. In such circumstances, 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 the contract entered into between the parties to the *lis*.

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

10. The learned Arbitrator shall be entitled to fee as per the schedule of the Act.

11. Since the dispute arises out of a contract of the year 2016, the hearing be expedited.

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

13. Joint Registrar (List) is directed to communicate the judgment to the learned Arbitrator.

14. Learned counsel for the parties also undertake to communicate the judgment to the learned Arbitrator.



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

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

(K. Vinod Chandran, CJ)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	04.09.2023
Transmission Date	

