

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.5 of 2023

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M/S Triveni Constructions through its Partner Shri Amit Anand Son of Late Sh Sant Swarup having registered office at College Road, Pathankot presently at E- 08, Wave Estate, Sector - 85, S.A.S. Nagar, Mohali - 140308, Punjab.

... .. Petitioner/s

Versus

1. The Union of India through the Ministry of Defence, Government of India, New Delhi.
2. The Engineer in Chief, Corps of Engineers, Military Engineer Services, Ministry of Defence, Government of India, New Delhi.
3. The Additional Director General (Projects), Military Engineer Services, Chennai.
4. The Chief Engineer (FY), Military Engineer Services, Hyderabad, Secunderabad.
5. Executive Engineer, Garrison Engineer (I) (P) Fy Ishapore, Military Engineer Services, Nawabganj- Ishapore, 24 Parganas (N), West Bengal.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shyam Kishore Sharma, Sr. Advocate Mr. Mayank Rukhaiyar, Advocate
For the Respondent/s	:	Dr. K.N. Singh, ASG Mr. Praveen Kumar Sinha, Sr. Panel Counsel Mr. Shivaditya Dhari Sinha, Advocate Mr. Amarjeet, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 01-12-2023

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. The dispute relates to contract no. CE(FY)/HYD/ISH/01 of 2021-22. In course of execution of the



contract, some dispute arose between the parties. The petitioner vide letter dated 18.02.2022, requested the respondents to resolve the issue but the respondents by their letter dated 19.02.2022 refused to do so. Finally, by letter dated 26.11.2022 the petitioner informed the respondents about this proposal to invoke Clause-70 of the GCC (Annexure-P/2), which is an arbitration clause, as despite the best efforts to get the dispute resolved, the same still stands.

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 contract (Annexure-P/2); (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 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 contract 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 a contract of the year 2021, 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)

aditya/-

AFR/NAFR	
CAV DATE	
Uploading Date	02.12.2023.
Transmission Date	

