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ORDER SHEET

AP/707/2023

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

DINESH INFRAPROJECTS PVT. LTD.
Versus
DAMODAR VALLEY CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 17th October, 2023.

Appearance:

Mr. Dipanjan Datta, Adv.

Mr. Chitra Bhanu Gupta, Adv.

Mr. Pradip Kr. Tarafder, Adv.

Mr. Subir Pal, Adv.

The Court: The settlement of disputes and arbitration clause containing the arbitration agreement at Clause 33 of the GCC contained in the Works & Procurement Manual, July 2016 of the petitioner provides for amicable settlement between the parties of any dispute or difference which may arise out of the contract. It is only after failure of the amicable settlement that the dispute will be referred to the Chairman of DVC or a person nominated by him for arbitration.

The legality of the unilateral appointment by DVC is not in issue here; the Court has been called upon to decide whether the petitioner's application under Section 11 of the 1996 Act can be allowed.

The arbitration agreement at Clause 33 provides for the parties first making an effort to amicably resolve the disputes. None of the series of letters disclosed by the petitioner and placed before the Court refer to any such amicable settlement. Hence, the petitioner will first have to exhaust the pre-arbitration condition before the petitioner can seek appointment of an Arbitrator.

AP/707/2023 is accordingly disposed of in terms of the above.

The affidavit of service is kept on record.

(MOUSHUMI BHATTACHARYA, J.)