

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

943 ARBITRATION APPLICATION NO.18 OF 2022

Shri Ramdeobaba Charitable Society
Akola Thr its President
Jatin Laxminarayan Rathie .. Applicant

Versus

Nagar Panchayat Patoda
Thr Its Chief Officer and Another ..Respondents

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Advocate for Applicant : Mr. Nikhil Santosh Jaju
Advocate for Respondent No.2 : Mr. Shrirang S. Dande

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 16th JUNE, 2023

ORDER :

. By way of this application, applicant seeks appointment of an Arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996 to resolve the dispute between applicant and respondent no.1.

2. Though initial and final disposal notice is duly served on respondent no.1, none appears on his behalf.

3. Respondent no.1 floated e-tender for Survey, Detailed Project Report preparation & Project Management Consultancy Services for Pradhan Mantri Awas Yojana (PMAY) at Patoda City. Applicant had submitted a bid in response to the said tender. Since applicant was the lowest bidder, his bid was accepted and tender was allotted to him. Pursuant to the allotment of the said tender, applicant executed work by preparing a draft Detailed Project Report (DPR). Respondent No. 1 forwarded the said DPR to State Level Nodel Agency i.e. MHADA, Mumbai. MHADA, after technical scrutiny, forwarded the proposal to Housing Department of the State Government. The proposal was then put up before the State Level Appraisal Committee (SLAC) for technical approval. The representative of the applicant made detailed representation of the project and after satisfaction of SLAC, it forwarded the proposal to the State Level Monitoring Committee (SLAMC) for further approval. Before the said SLAMC also, representative of the applicant has made a detailed representation. The SLAMC, after being satisfied, approved the proposal and forwarded it to the Ministry of Housing and Urban Affairs, New Delhi for final approval. Technical Team of Ministry of Housing and Urban Affairs, New Delhi raised some queries regarding the said proposal. The queries have been duly complied with by the applicant.

Afterwards, the proposal was forwarded to Central Sanctioning & Monitoring Committee (CSMC) for final approval and CSMC, after due satisfaction, approved the first and second proposal on 30.10.2018 and third proposal on 20.01.2021.

4. After approval of the proposal by the CSMC, as per the agreement, applicant submitted a bill of Rs.1,72,61,812/- on 21.11.2018 for the work done for the first and second proposal. A bill of Rs.95,11,300/- for the work done for the third proposal was submitted on 15.02.2021. Against the aforesaid bills, only an amount of Rs.1,00,00,000/- came to be released as part payment and remaining amount of Rs.72,61,812/- and Rs.95,11,300/- is not paid. Hence, applicant, after pursuation, issued notice / letter dated 28.06.2022 seeking appointment of Arbitrator for resolving the dispute. As respondent no.1 failed to appoint Arbitrator, the applicant has approached this Court by filing the present application.

5. Having heard learned advocate for the applicant and learned advocate for respondent no.2, which is the Nodel Agency and on perusal of the clause – 12 of the Agreement dated 20.03.2018 and the notice / representation dated 28.06.2022, the prayer made by the applicant deserves to be allowed.

Hence, the following order is passed.

ORDER

- (i) The application is allowed.
- (ii) In terms of Clause-12 of the Agreement dated 20.03.2018, Executive Engineer of respondent no.2 is appointed as Arbitrator to resolve the dispute between applicant and respondent no.1.
- (iii) Parties to appear before learned Arbitrator on the date given by the Arbitrator.

**[NITIN B. SURYAWANSHI]
JUDGE**