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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 04th September 2023

+ ARB.P. 431/2023

**TELECOMMUNICATIONS CONSULTANTS
INDIA LTD**

..... Petitioner

Through: Mr Balendu Shekhar, Mr. Ravi
Gopal, Mr. Raj Kumar Maurya, Mr. Krishna
Chaitanya and Ms. Tanisha Samanta,
Advocates.

versus

**POWER GRID CORPORATION OF INDIA
LIMITED**

..... Respondent

Through: Mr. Apoorv P. Tripathi and
Ms. Anjali Kaushik, Advocates.

**CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J. (ORAL)****I.A. 16900/2023 (for additional documents, by Petitioner)**

1. This is an application preferred on behalf of the Petitioner seeking to file additional document.
2. Issue notice.
3. Mr. Apoorv P. Tripathi, learned counsel accepts notice on behalf of the Respondent.
4. For the reasons stated in the application, the same is allowed and disposed of.
5. Additional document filed on behalf of the Petitioner is taken on record.

**ARB.P. 431/2023**

6. Present petition has been filed under Section 11(4) and (6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “1996 Act”) for appointment of the Arbitral Tribunal to adjudicate the disputes between the parties with respect to contract for Supply and Erection of Fibre Optic Communication Network for NDMC SCADA/DMS Project (hereinafter referred to as the ‘NDMC SCADA Contract’) dated 31.10.2008.

7. As per the factual narrative in the petition, Respondent was entrusted by New Delhi Municipal Council (NDMC) to undertake the work of the Project wherein supply and laying of Optical Fibre Cable was required to be carried out in NDMC area. Petitioner submitted its bid in response to a tender notification issued by the Respondent in relation to Project work for Respondent’s diversification into telecommunication (PDT) Project and upon its bid being accepted two separate contracts, both dated 31.10.2008, namely, Supply Contract and Erection Contract were awarded to the Petitioner. Prior thereto, after successful completion of a bidding process, two separate contract agreements namely, ex-works Supply Contract Agreement and Service Contract Agreement were executed between the Petitioner and the Respondent, both dated 27.05.2003 for erection of underground Optic Cable Package-4A (hereinafter referred to as ‘Package-4A Contract’) under PGICL Contract Agreement with TCIL for POWERGRID diversification into Telecommunication PDT Project.

8. Disputes arose between the parties with respect to all the contracts and invoking the arbitration agreements between the parties, Petitioner filed two petitions under Section 11(4) and (6) of the 1996



Act before this Court for appointment of an Arbitral Tribunal, one being the present one and the other being ARB. P. 430/2023.

9. On 19.04.2023, ARB. P. 430/2023 was allowed and the Arbitral Tribunal was constituted by the Court while notice was issued in the present petition. The only dispute arising between the parties that concerns the present petition is an alleged illegal deduction of a sum of Rs. 63,14,886/- which the Respondent claims to have adjusted against the amounts allegedly payable by the Petitioner to the Respondent under the Package-4A Contract.

10. Learned counsel for the Petitioner submits that an amount of Rs. 63,14,886/- is payable to the Petitioner under the NDMC SCADA Contract but the money is not being released to the Petitioner on the ground that the same is recoverable by the Respondent. It is submitted that an Arbitral Tribunal has already been constituted with respect to Package-4A Contract and the proceedings are on going. Since the disputes between both the Contracts are interrelated and the decision in the pending arbitral proceedings will have a direct bearing on the claims raised in the present petition, it would be appropriate if the reference of the disputes is made to the same Arbitral Tribunal which is *in seisin* of the disputes under Package-4A Contract. Learned counsel for the Respondent, on instructions, submits that he has no objection to this course of action as this would avoid multiplicity of proceedings, especially when the dispute which is the subject matter of the present petition is directly related to the disputes required to be adjudicated in the on going arbitral proceedings.

11. Accordingly, with the consent of the parties, disputes which are subject matter of the present petition arising out of the NDMC



SCADA Contract dated 31.10.2008 are referred for adjudication before the Arbitral Tribunal comprising of Mr. Justice G.S. Sistani, Former Judge of Delhi High Court (Presiding Arbitrator), Er. V.K. Malik, Former SDG, CPWD (Co-Arbitrator) and Mr. Anand Kumar Gupta, Ex Director (Commercial) NTPC (Co-Arbitrator).

12. Fees of the learned Arbitrators shall be regulated in accordance with Fourth Schedule of the 1996 Act.

13. Petition stands disposed of in the above terms.

JYOTI SINGH, J

SEPTEMBER 04, 2023/shivam