

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.47 of 2024

M/s Sanjeev Kumar through its Proprietor namely Sri Sanjeev Kumar, aged about 52 years, (Male), Son of Sri Ram Baran Singh, Resident of Sakanvar Tola, Ward No. 14, P.S.- Mokama Town, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
2. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
3. The Chief Engineer, Public Health Engineering Department, Patna zone, Patna.
4. The Superintendent Engineer, Public Health Engineering Department, Patna Circle, Patna.
5. The Executive Engineer-cum-Project Manager, District Project Management Unit (DPMU), Patna.
6. The Assistant Engineer, Public Health Sub Division, Branch Patna East, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vikas Kumar, Advocate
For the Respondent/s	:	Mr. Kumar Manish, SC-5
		Mr. Prashant Kumar AC to SC-5

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 22-11-2024

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. Petitioner and the respondent entered into an agreement dated 09.01.2017 (Annexure-1). The said agreement



contains an arbitration clause. The petitioner wrote letters to the respondent for resolution of the dispute and also issued legal notice dated 05.09.2023 (Annexure-P/24), but to no avail.

4. It is pleaded that the respondents have not settled the dispute till date and the dispute is civil in nature.

5. The only objection raised by the respondent is that the agreement by Clause 1.6.1 specifically speaks of appointment of an Adjudicator, who has to be first approached for resolution of the dispute; only then Clause 1.6.2 regarding arbitration comes into play, is the contention.

6. The learned Counsel for the petitioner, however, has pointed out from the Special Conditions of Contract that an Adjudicator has to be decided at the time of agreement and that he shall be an official retired, but not less than the rank below the Superintending Engineer.

7. Admittedly, there is no appointment made of an Adjudicator at the time of the agreement. In such circumstances, an Arbitrator is to be appointed.

8. As agreed by the parties, Hon'ble Mr. Justice Sadanand Mukherjee, a former Judge of the Patna High Court, is appointed as learned Arbitrator to adjudicate all disputes arising out of the agreement 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 an agreement of the year 2017, 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 order to the learned Arbitrator.

14. Learned counsel for the parties also undertake to communicate the order 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	25.11.2024
Transmission Date	

