

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.70 of 2023

Delco Infrastructure Projects Limited, Registered office-158, Pocket 1, Dwarka Sector 9, Dwarka, New Delhi, 110077, through its Authorized Signatory Vishwajeet Kumar Singh, aged about 39 years, Male, Son of Hare Ram Singh, Flat No.-158, DDA Flats, Pocket-1, Opposite Siksha Bharati School, Sector-9, Dwarka, Amberhi, South, West Delhi-110075.

... .. Petitioner/s

Versus

1. The Bihar State Education Infrastructure Development Corporation Limited, Shiksha Bhawan, Bihar Rashtra Bhasha Parishad, Acharya Shivpujan Sahay Patna Saidpur, Patna- 800004 through its Managing Director.
2. The Managing Director, Bihar State Education Infrastructure Development Corporation Limited, Shiksha Bhawan, Bihar Rashtra Bhasha Parishad, Acharya Shivpujan Sahay Patna Saidpur, Patna- 800004.
3. The Chief Engineer, Bihar State Education Infrastructure Development Corporation Limited, Shiksha Bhawan, Bihar Rashtra Bhasha Parishad, Acharya Shivpujan Sahay Patha Saidpur, Patna- 800004.
4. The Chief Consultant (Technical), Bihar State Education Infrastructure Development Corporation Limited, Patna.
5. The Superintending Engineer, Bihar State Education Infrastructure Development Corporation Limited, Kosi Division, Saharsa.
6. The Executive Engineer, Bihar State Education Infrastructure Development Corporation Limited, Kosi Division, Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vikas Kumar, Advocate
For the Respondent/s	:	Mr. Girijish Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 12-01-2024

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 19.08.2013 (Annexure-1). The said agreement contains an arbitration clause as Clause-25. The petitioner invoked the said arbitration clause vide communication dated 01.10.2016, 31.03.2017, 19.05.2017, 28.04.2023, 24.05.2023, 05.06.2023 (Annexures-2, 3, 8 and 9) for appointment of an arbitrator, but to no avail.

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 agreement entered into between the parties to the *lis*; (b) the existence of arbitration clause contained therein; (c) the existence of dispute(s) arising there from; (d) the dispute arising out of the agreement being civil in nature; (e) no legal impediment in the adjudication of the dispute by the learned Arbitrator; (f) Petitioner having exhausted the channel available for resolution of the dispute; (g) the respondent 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 agreement 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 an agreement of the year 2016, 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 question of limitation is kept open and the learned Arbitrator shall consider it.
15. The Request Petition stands disposed of in the above terms.

(K. Vinod Chandran, CJ)

aditya/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.01.2024.
Transmission Date	



