

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.104 of 2022

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Jamuna Prasad S/o Sri Prafull Chand Prasad, R/o Pali More, Dalmia Nagar,
Dehri-on-Sone, District - Rohtas, Bihar - 821305.

... .. Petitioner/s

Versus

1. The General Manager, East Central Railway Head Quarter Office, Hazipur, Bihar - 844101.
2. The Senior Divisional Engineer - 2, East Central Railway, DRM's Office, Pandit Din Dayal Upadhaya, Uttar Pradesh - 232101.
3. Shri A.K. Dubey, Ld. Presiding Arbitrator, (PCE/ER), 17, N.S. Road, Fairlie Place, 2nd Floor, Kolkata - 700001.
4. Shri Randhir Sahay, Ld. Co-Arbitrator, (Additional Commissioner/SDMC), E-1 Block, 23rd Floor, Civic Centre, Minto Road, South Delhi Municipal Corporation, New Delhi -1110002.
5. Shri H.C. Meena, Ld. Co-Arbitrator (Ex. CSES/NWR/JP), B- 150, Shiv Officers Colony (RAS), Jagatpura, Jaipur, Rajasthan - 302017.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Aryan Sinha, Advocate
For the Respondent/s	:	Dr. K.N. Singh, ASG
		Mr. Manoj Kumar Singh, CGC
		Mr. Sriram Krishna, Advocate
		Mr. Amarjeet, JC to ASG

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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 05.04.2011 (Annexure-1). The Regulation of Tender and Contract and General conditions of Contract contains an



arbitration clause as Clause-64(1)(ii). The petitioner invoked the said arbitration clause vide communication dated 24.03.2014, 16.04.2014, 27.08.2014, 15.09.2014, 26/30.11.2015, and 24.09.2022, (Annexure-3, 4, 5, 6, 7,8 and 11) 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, Shri Shahzad Shah (IRAS), Retd. Finance Commissioner, Thane (W) Maharashtra, 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 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	

