

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.107 of 2024

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Jai Maa Saraswati Construction Private Limited, situated at -Shop No. 119/A,
First Floor, Maharaja Kamashwer Complex, Patna through its Managing
Director Sri Gautam Kumar, gender- male, age about - 37 years, son of- Sri
Dukhan Yadav, Resident of- Mohalla- Pirmuhani, Chauthigali, Police station-
Gandhi Maidan, District- Patna

... .. Petitioner/s

Versus

1. The Union of India through, Chairman, Railway Board, New Delhi.
2. The General Manager, East Central Railway, Hazipur, Vaishali, Bihar.
3. The Divisional Railway Manager, East Central Railway, Danapur, Patna
4. The Senior Divisional Engineer-3, East Central Railway, Danapur, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prasoon Kumar, Advocate
For the Respondent/s	:	Dr. K. N. Singh, Additional Solicitor General Mr. Alok Kumar, CGC

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 06-12-2024

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 09.02.2012 (Annexure-1). The said agreement
contains an arbitration Clause-64. The petitioner invoked the



said arbitration clause *vide* notice dated 13.09.2023 (Annexure-5), but to no avail.

4. Going by the decision of the Hon'ble Supreme Court in ***Central Organisation for Railway Electrification v. M/s ECI SPIC SMO MCML (JV) A Joint Venture Company; in Civil Appeal Nos. 9486-9487 of 2019***, the appointment of an Arbitrator from the panel supplied by the Railways cannot be proceeded with. The Hon'ble Supreme Court has also categorically stated that it should be a neutral Arbitrator.

5. As such, Hon'ble Justice Smt. Anjana Mishra, 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*.

6. All pleas and issues raised, on merits, are left open to be considered and decided by the learned Arbitrator.

7. The learned Arbitrator shall be entitled to fee as per the schedule of the Act.

8. Since the dispute arises out of an agreement of the year 2012, the hearing be expedited.

9. The issue of limitation, if any, is left open to be raised before the Arbitral Tribunal.

10. Joint Registrar (List) is directed to



communicate the order to the learned Arbitrator.

11. Learned counsel for the parties also undertake to communicate the order to the learned Arbitrator.

12. The Arbitral Tribunal shall issue notice to the respondents.

13. The Request Petition stands disposed of in the above terms.

(K. Vinod Chandran, CJ)

sharun/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.12.2024
Transmission Date	

