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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 89/2024

M/S A.K. BUILDERS

..... Petitioner

Through: Mr. Vineet Jhanji & Mr. Imran
Moulaey, Advocates.

versus

ALL INDIA INSTITUTE OF MEDICAL SCIENCES

(ENGINEERING SERVICE DEPARTMENT) Respondent

Through: Mr. Satya Ranjan Swain, Panel
Counsel for AIIMS with Mr.
Kautilya Birat, Advocate. [M:-
886089238]

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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05.02.2024

1. By way of this petition under Section 11 of the Arbitration and Conciliation Act, 1996 ["the Act"] the petitioner seeks appointment of an arbitrator to adjudicate disputes between the parties under an agreement dated 28.03.2022 ["the Agreement"].
2. Under the Agreement, the petitioner was to carry out repair works at the residential campus of the respondent. The General Conditions of Contract 2020 ["GCC"] contain an arbitration clause [Clause 25, as modified by Office Memorandum No. DG/CON/317 dated 28.06.2021], which provides for disputes to be first referred to conciliation. On the



failure of conciliation proceedings, Clause 25 provides for disputes to be settled in arbitration.

3. Disputes having arisen between the parties, the petitioner invoked arbitration by a legal notice dated 23.09.2023. The notice did not elicit a response, which has led to the filing of the present proceedings.

4. Mr. Satya Ranjan Swain, does not object to the appointment of an arbitrator but states upon instructions that the petitioner has approached the respondent in October, 2023 for conciliation which the respondent undertakes to initiate within a period of two weeks from today.

5. Mr. Vineet Jhanji, learned counsel for the petitioner, has no objection to a reference to conciliation.

6. Having regard to the submissions of learned counsels for the parties, I am of the view that the petition can be disposed of by referring the parties to conciliation as per the procedure provided in Clause 25 and also appointing an arbitrator for adjudication of the disputes in the event that the conciliation proceedings are unsuccessful.

7. With the consent of learned counsels for the parties, the petition is disposed of with the following directions:

- a. The parties are referred to conciliation as per the procedure provided under Clause 25 of GCC, as modified by Office Memorandum No. DG/CON/317 dated 28.06.2021.
- b. In the event, the conciliation proceedings are unsuccessful, the disputes will be adjudicated by arbitration under the aegis of Delhi International Arbitration Centre, Shershah Road, New Delhi-110503 [“DIAC”]. Ms. Beenashaw Soni, Advocate [Tel No. 9810046611] is appointed as the learned Arbitrator for this



purpose.

- c. The arbitration proceedings will be governed by Rules of DIAC, including as to the remuneration of the learned Arbitrator.
 - d. The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act, prior to entering upon the reference.
 - e. DIAC and the learned Arbitrator are requested to defer the arbitral proceedings until 01.05.2024, to enable the parties to settle their disputes in conciliation. If further time is required the parties may jointly approach DIAC for a further deferment.
 - f. It is made clear that all rights and contentions of the parties are left open for adjudication by the learned Arbitrator.
8. The petition stands disposed of with these directions.

PRATEEK JALAN, J

FEBRUARY 5, 2024

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