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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ARB.P. 110/2024 & I.A. 1876/2024**

PATIL CONSTRUCTION INFRASTRUCTURE LTD

..... Petitioner

Through: Mr. Suhail Dutt, Sr. Adv. with Mr.
Kartike Anand, Mr. Angad Mehta and
Mr. Arsh, Advocates.

versus

**UNION OF INDIA THROUGH MINISTRY OF ROAD
TRANSPORT HIGHWAYS**

..... Respondent

Through: Mr. Thakur Virendra Pratap Singh
with Ms. Deepa Malik (GP) for UOI.

+ **O.M.P.(I) (COMM.) 386/2023 & I.A. 23444/2023**

PATIL CONSTRUCTION INFRASTRUCTURE LTD

..... Petitioner

Through: Mr. Suhail Dutt, Sr. Adv. with Mr.
Kartike Anand, Mr. Angad Mehta and
Mr. Arsh, Advocates.

versus

**UNION OF INDIA THROUGH MINISTRY OF ROAD
TRANSPORT AND HIGHWAYS & ANR.**

..... Respondents

Through: Mr. Vikram Jetly, CGSC with Ms.
Shreya Jetly, Advocate for
respondent.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

12.02.2024

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At the outset, Mr. Vikram Jetly, learned Central Government Standing Counsel appearing for the respondents submits that pursuant to what was recorded in order dated 05.01.2024 made in O.M.P.(I) (COMM.) No. 386/2023, the respondents have nominated their arbitrator on the Arbitral Tribunal *vide* communication dated 09.02.2024. A copy of the communication has been handed-up in court.

2. Mr. Suhail Dutt, learned senior counsel appearing for the petitioner submits that since the petitioner had also nominated their arbitrator on the Arbitral Tribunal, now the two nominated arbitrators are required to nominate the Presiding Arbitrator in accordance with the procedure agreed-to between the parties.
3. Mr. Dutt further submits, that in these circumstances, O.M.P.(I) (COMM.) No. 386/2023 filed under section 9 of the Arbitration & Conciliation Act, 1996 (A&C Act') may be referred to the learned Arbitral Tribunal that would be constituted, to be treated as an application under section 17 of the A&C Act.
4. In view of the above, as agreed-to by learned counsel for the parties, ARB.P. No.110/2024 is disposed-of, directing the learned Arbitrators nominated by the two parties to nominate the Presiding Arbitrator within the time-frame prescribed in the arbitration agreement, as per applicable rules.
5. Furthermore, O.M.P.(I)(COMM.) No. 386/2023 is disposed-of, directing the petitioner to place the said petition before the learned Arbitral Tribunal as an application under section 17 of the A&C Act within 10 days of its constitution, alongwith the reply and rejoinder



filed thereto; which the learned Arbitral Tribunal may consider and decide in accordance with law.

6. It is further directed that the interim relief granted *vide* order dated 01.12.2023 in O.M.P.(I)(COMM.) No. 386/2023 shall continue till the learned Arbitral Tribunal decides the aforesaid application under section 17 of the A&C Act; clarifying that no precipitate action shall be taken by the respondent against the petitioner arising from Engineering, Procurement & Construction Agreement dated 26.04.2017, *without leave of the learned Arbitral Tribunal*.
7. The petitions stand disposed-of in the above terms; without expressing any opinion on the merits of the matter.
8. Pending applications, if any, also disposed-of.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 12, 2024

V.Rawat