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

\+ ARB.P. 146/2024

KALPATARU PROJECTS INTERNATIONAL LIMITED

ERSTWHILE JMC PROJECTS INDIA LTD ..... Petitioner

Through: Mr. Nilava Bandyopadhyay, Ms. Divya Kashyap, Advs.

versus

TELECOMMUNICATION CONSULTANTS INDIA LIMITED

..... Respondent

Through: Ms. Jayshree Dugar, Adv.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

O R D E R

% **02.02.2024**

I.A. 2563/2024

Exemption is granted, subject to all just exceptions.

The petitioner shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.

The application is disposed of.

ARB.P. 146/2024

1. This is a petition under section 11(5) of the Arbitration and Conciliation Act, 1996 seeking appointment of an arbitrator.

2. The arbitration clause is contained in General Conditions of Contract being clause 63.3 which reads as under:

" ***Arbiration***
63.3 ***A.*** *In the event of any dispute or difference arising between TCIL*

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and the Contractor in any matter covered by this contract or arising directly or indirectly therefrom or connected or concerned with the said contract in any manner of the implementation of any terms and conditions of the said contract, the matter shall be referred to the Chairman & Managing Director, TCIL who may himself act as sole arbitrator or may name as sole arbitrator an officer of TCIL notwithstanding the fact that such officer lias been directly or indirectly associated. with this contract and the provisions of the Indian Arbitration Act 1996. shall apply to such arbitration. The Contractor expressly agrees that the arbitration proceedings shall be held at New Delhi.

B. *In case any supplier wants to take the dispute to a court of law after arbitration, award as aforesaid, it is clearly understood that only courts in Delhi shall have the Jurisdiction.*

C. *Arbitration: Contracts with PSU's and Government Departments*

In the event of any dispute or difference relating to the interpretation and application or the provisions of the contracts, such dispute or difference shall be referred by either party to the arbitration of one of the Arbitrators in (he Department of Public Enterprises to be nominated by the Secretary to the Govt. of India, incharge of the Bureau of Public Enterprises. The Arbitration Act, 1940 shall not be applicable to the arbitration under this clause. The award of the Arbitration shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for-setting aside or revision of the award of the Law Secretary, Depart of Legal Affairs. Ministry of Law and Justice, Govt of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary/Additional Secretary, when so authorized by the Law Secretary, whose decision shall bind the parties finally and conclusively. The parties in the dispute will share equally the cost of arbitration as intimated by the Arbitrator."

3. The Arbitrator was appointed on 15.09.2022 but the learned Sole Arbitrator on 18.01.2024 has recused himself.

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4. In terms of Section 15 of the Arbitration and Conciliation Act, a fresh arbitrator needs to be appointed.

5. Issue notice. Ms. Jayshree Dugar, learned counsel for the respondent accepts notice and has no objection to the petition.

6. For the said reasons, Justice Kurian Joseph (Retd.), (Mob. No. 9999775444) is appointed as an Arbitrator to adjudicate the disputes on the same terms and conditions as contained in the order dated 15.09.2022.

7. The petition is allowed and disposed of.

JASMEET SINGH, J

FEBRUARY 2, 2024/DM

Click here to check corrigendum, if any

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