



\$~99

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

+ **W.P.(C) 3694/2021 & CM APPL. 11204/2021**

NAVRATTAN ENTERPRISES

..... Petitioner

Through: Mr. Amit Gupta, Mr. Shiv Verma and
Ms. Muskan Nagpal, Advocates.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Ms. Arunima Dwivedi, CGSC for
UoI.
Mr. Puneet Taneja, Mr. Manmohan
Singh Narula, Mr. Amit Yadav and
Mr. Anil Kumar, Advocates for
NTPC.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

%

10.05.2024

1. The Petitioner has approached this Court with the following prayers:-

“a) Pass a writ of Mandamus further directing the Respondent No. 2 to sanction and release the amount of Price Escalation in terms of its circular dated 24.04.2017 on account of enhanced minimum wages based on Notification No. S.O. 190(E) dated 19.01.2017 issued by the Respondent No. 1;

b) Pass a Writ of Certiorari quashing letter dated 20.02.2020 issued by the Respondent No. 2 since the same is arbitrary, unilateral, discriminatory and without any basis and contrary to circular dated 24.04.2017 issued by the Respondent No.2;”



2. A preliminary objection has been raised by learned Counsel for the Respondent regarding the maintainability of this writ petition on the ground that there is a dispute resolution clause between the parties.
3. The facts of the case reveal that the Petitioner was given the contract of running and maintenance of Surya, Yamuna and Narmada Bhawan Guest House at NTPC-Vindhyanchal, Madhya Pradesh.
4. The claim of the Petitioner is based on a notification issued by the NTPC regarding revision of contract in view of the extraordinary hike in minimum wages and ESI notification. The Petitioner approached this Court stating that since the amount is determinable in nature, there is no purpose of referring it to arbitration.
5. *Per contra*, it is the case of learned Counsel for the Respondent/NTPC that the issue as to whether the circular would be applicable, the number of persons involved and any other factual issues would arise.
6. Considering the nature of dispute, this Court was of the opinion that the parties must be relegated to the alternate dispute clause which is mentioned in the agreement, which is arbitration.
7. Learned Counsel for the Petitioner, however, points out that the arbitration clause does not specify the seat of the arbitration and it also provides that no person other than the person appointed by the CMD, NTPC should act as an arbitrator and the arbitration would be governed under the Arbitration Act, 1940.
8. It is needless to state that after the amendment of the Arbitration Act and the repeal of Arbitration Act, 1940, the matter shall be governed by Arbitration & Conciliation Act, 1996. The Arbitrator shall be appointed in accordance with the Arbitration & Conciliation Act, 1996 and keeping in



mind the law laid down by the Apex Court regarding the appointment of an Arbitrator.

9. In view of the ambiguity in the arbitration clause, let the arbitration be conducted under the aegis of the Delhi International Arbitration Centre (DIAC) under the rules and regulations of the DIAC.

10. With these observations, the writ petition is disposed of along with pending application(s), if any.

11. It is needless to state that the Petitioner would be entitled to the benefit of Section 14 of the limitation Act and the period from filing the instant writ petition till the date of disposal of the writ petition has to be excluded while calculating the period of limitation.

SUBRAMONIUM PRASAD, J

MAY 10, 2024

hsk