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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **O.M.P.(MISC.)(COMM.) 305/2024 & I.A. 8340/2024**
UNION OF INDIA Petitioner

Through: Mr. Anurag Ahluwalia, CGSC with
Mr. Tarveen Singh Nanda, Mr. A.K.
Pandey, Director and Mr. Manoj
Goyal, Advs.

versus

**INDERJIT MEHTA CONSTRUCTIONS PRIVATE
LIMITED** Respondent

Through: Mr. Ashish Dholakia, Mr. Aaditya
Vijay Kumar , Ms. Akshit Katoch,
Mr. Pursoth Kannan, Advs. (M-
9003416600)

AND

+ **O.M.P. (T) (COMM.) 21/2024**
**MS INDERJIT MEHTA CONSTRUCTIONS PVT.
LTD.** Petitioner

Through: Mr. Ashish Dholakia, Mr. Aaditya
Vijay Kumar , Ms. Akshit Katoch,
Mr. Pursoth Kannan, Advs.

versus

UNION OF INDIA Respondent

Through: Mr. Anurag Ahluwalia, CGSC with
Mr. Tarveen Singh Nanda, Mr. A.K.
Pandey, Director and Mr. Manoj
Goyal, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
13.05.2024

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1. This hearing has been done through hybrid mode.
2. These are two petitions. **O.M.P.(MISC.)(COMM.) 305/2024** has been filed under Section 29(A)(4)&(5) of the Arbitration and Conciliation Act,



1996 (hereinafter, '*the Act*') filed by the Union of India seeking extension of mandate of the Id. Arbitrator. ***O.M.P.(T) (COMM.) 21/2024*** under Sections 14 and 15 read with Section 11(6) of the Act filed by the Claimant is for termination of mandate of the Id. Arbitrator and substitution of the sole Arbitrator.

3. The submission on behalf of Mr. Dholakia, Id. Senior Counsel appearing for the Claimant is that the arbitration clause contemplated appointment of an Engineer in this matter. However, since the initial sole Arbitrator who was appointed was the Former Chief Engineer, Punjab PWD had passed away on 4th May, 2021, the present Id. Arbitrator- Mr. Justice (Retd.) Vikramjit Sen who was a Retired Judge of the Supreme Court had been appointed in a petition under Section 11(6) of the Act on 7th December, 2021 in ***ARB.P. 899/2021***.

4. It is prayed by the Id. Counsel for Claimant that for the expeditious disposal, an Engineer may be appointed as the matter consists of technical issues. In addition, it is submitted that arbitral proceedings have been delayed considerably and deserve to be expedited.

5. On behalf of the Union of India, it is submitted by Mr. Ahluwalia, Id. CGSC that it is the Claimant who is delaying the proceedings as is evident from the order sheet of the arbitral tribunal dated 10th January, 2024. Even earlier, the matter was fixed in August 2023, which had to be cancelled due to expiry of the mandate and the Union of India not giving consent to the extension of the mandate. He further submits that the full fee of the arbitration is paid to the Id. Judge.

6. Be that as it may, the Court has considered the matter. The matter is at the final stage *i.e.*, for final arguments before the Id. Arbitrator. The



appointment of any new Arbitrator at this stage would unduly delay the matter. If any technical assistance is required, the Id. Arbitrator is free to engage a technical expert as may be deemed appropriate. Both parties would have no objection to the same insofar as the assistance to the Id. Arbitrator is concerned. The petition under Section 14/15 of the Act seeking termination of the mandate is thus dismissed.

7. Mr. Ahluwalia, Id. CGSC submits that the entire arbitral fee has now been paid and there would be duplication of fee and burden on the parties.

8. In the above background, this Court is not inclined to change the arbitrator at this stage. The Id. Arbitrator's mandate is now extended till 30th September, 2024.

9. Insofar as the costs of Rs.2 lakhs imposed by the Id. Arbitrator on the Claimant upon dismissal of the application for impleadment is concerned, the Claimant may make its submissions before the Id. Arbitrator for waiver of the same.

10. Parties to appear before the Id. Arbitrator on 21st May, 2024.

11. A copy of this order be sent to Id. Arbitrator - Justice Sen (Retired) on his mobile number: +91 8447333366.

12. Both petitions are disposed of. All pending applications are disposed of.

13. Order *dasti*.

PRATHIBA M. SINGH, J

MAY 13, 2024

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