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

+ **ARB.P. 688/2023**

SHIV HARI SINGLA

..... Petitioner

Through: **Mr Jitender Chaudhary and Ms Shilpa Chohan, Advocates (through VC)**

versus

UNION OF INDIA & ANR.

..... Respondents

Through: **Mr Jjitendra Kumar Tripathi, Adv. for UOI**

Mr Raj Kumar, SPC with Mr Ankit Choudhary, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

05.01.2024

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1. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator in terms of Clause 70 of the General Conditions of the Contracts which reads as under:

“70. Arbitration:- All disputes, between the parties to the Contract (other than those for which the decision of the C.W.E. or any other person is by the Contract expressed to be final and binding) shall, after written notice by either party to the Contract to the other of them, be referred to the sole arbitration of an engineer officer to be appointed by the authority mentioned in the tender documents.

Unless both parties agree in writing such reference shall not take place until after the completion or alleged completion of



the Work or termination or determination of the Contract under Condition Nos. 55, 56 and 57 hereof.

Provided that in the event of abandonment of the Works or cancellation of the Contract under Condition Nos. 52, 53 or 54 hereof, such reference shall not take place until alternative arrangements have been finalized by the Government to get the Works completed by or through any other Contractor or Contractors or Agency or Agencies.

Provided always that commencement or continuance of any arbitration proceeding hereunder or otherwise shall not in any manner militate against the Government's right of recovery from the contractor as provided in Condition 67 hereof.

If the Arbitrator so appointed resigns his appointment or vacates his office or is unable or unwilling to act due to any reason whatsoever, the authority appointing him may appoint a new Arbitrator to act in his place.

The Arbitrator shall be deemed to have entered on the reference on the date he issues notice to both the parties, asking them to submit to him their statement of the case and pleadings in defence.

The Arbitrator may proceed with the arbitration, exparte, if either party, inspite of a notice from the Arbitrator fails to take part in the proceedings.

The Arbitrator may, from time to time with the consent of the parties, enlarge, the time upto but not exceeding one year from the date of his entering on the reference, for making and



publishing the award.

The Arbitrator shall give his award within a period of six months from the date of his entering on the reference or within the extended time as the case may be on all matters referred to him and shall indicate his findings, along with sums awarded, separately on each individual item of dispute.

The venue of Arbitration shall be such place or places as may be fixed by the Arbitrator in his sole discretion.

The award of the Arbitrator shall be final and binding on both parties to the Contract.”

2. The petitioner vide Notice dated 09.10.2021 invoked the Arbitration clause and sought reference of disputes to arbitration. The petitioner also appointed a Sole Arbitrator for adjudicating the dispute between the parties. Mr Chaudhary, learned counsel for the petitioner states that the petitioner will have no objection in case a Sole Arbitrator is appointed by this Court.
3. There is no reply filed by the respondents.
4. Learned counsel for the respondents states that they have no objection for appointment of an Arbitrator.
5. For the said reasons, the petition is allowed and Justice Rajiv Sahai Endlaw (Retd.) (Mobile Number:- 9717495002) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
6. The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi hereinafter, referred to as the ‘DIAC’). The remuneration of the learned Arbitrator shall be in terms of Fourth Schedule of the Arbitration and Conciliation Act, 1996.



7. The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
8. It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
9. The parties shall approach the learned Arbitrator within two weeks from today.
10. The petition is allowed and disposed of in the aforesaid terms.

JASMEET SINGH, J

JANUARY 5, 2024

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[Click here to check corrigendum, if any](#)