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

+ **ARB.P. 852/2024**

M/S HES INFRA PVT LTD

.....Petitioner

Through: Ms. Amrita Sharma, Mr. Rajat
Jonathan, Advs.

versus

**MINISTRY OF ROAD TRANSPORT AND HIGHWAYS
GOVERNMENT OF INDIA**

.....Respondent

Through: Dr. B Ramaswamy, CGSC

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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06.11.2024

1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an arbitrator for adjudication of disputes between the parties arising out of the agreement dated 28.07.2021.
2. The facts are that the petitioner and the respondent entered into an agreement dated 28.07.2021 for the rehabilitation and upgradation to 2- lane configuration of Ashyari-Shri Kyari Section (km 50.000 to km 75.000) of NH-707 in the State of Himachal Pradesh under the Green National Highways Corridor Project (GNHCP) with the loan assistance of the World Bank.
3. The arbitration clause is contained as clause 26.3 which reads as under:

“26.3 Arbitration Any Dispute which is not resolved amicable by conciliation, as provided in clause 26.2, shall be finally decided by reference to arbitration by a board of Arbitrators appointed in accordance with Clause 26.3.2. Such arbitration shall be held in



accordance with the Arbitration and Conciliation Act, 1996 of India.”

4. After some arguments, Dr. Ramaswamy, learned CGSC is agreeable that the matter be referred to the Board of Arbitrators keeping all the objections and contentions of the respondent open.

5. The petitioner has already appointed Mr. Y. Reddappa Reddy, District Judge (Retd.) as its nominee arbitrator by way of a resolution dated 12.04.2024.

6. Therefore, the respondent will appoint its nominee arbitrator within 6 weeks from today and both the appointed arbitrators of the petitioner and the respondent shall appoint a presiding arbitrator within 4 weeks thereafter, in terms of clause 26.3 of the Agreement.

7. For the said reasons, the petition is allowed and the following directions are issued:-

- i) 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’).
- ii) The remuneration of the learned Arbitrators shall be in terms of DIAC (Administrative Cost and Arbitrators’ Fees) Rules, 2018.
- iii) The learned Arbitrators are requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- iv) 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/counter-



claims and merits of the dispute of either of the parties, are
left open for adjudication by the learned arbitrator.

8. The present petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

NOVEMBER 6, 2024 / (MS)

Click here to check corrigendum, if any