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

+ O.M.P.(I) (COMM.) 197/2024 & I.A. 31695/2024

METRO TRANSIT PVT. LTDPetitioner

versus

GOVERNMENT OF NCT OF DELHIRespondent

+ O.M.P.(I) (COMM.) 198/2024 & I.A. 31696/2024

ANTONY ROAD TRANSPORT SOLUTIONS PVT.
LTDPetitioner

versus

GOVERNMENT OF NCT OF DELHIRespondent

+ O.M.P.(I) (COMM.) 199/2024 & I.A. 31697/2024

GOVERDHAN TRANSPORT CO PVT LTDPetitioner

versus

GOVERNMENT OF NCT OF DELHIRespondent

Appearance: Mr. Sushil Dutt Salwan, Sr. Advocate with Mr. Aditya Garg and Mr. Arjun Garg, Advocates for the petitioner.

Mr. Sameer Vashisht, ASC GNCTD with Ms. Harshita Nathrani and Mr. Vedansh Vashisht, Advocates.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

% **ORDER**
15.07.2024

O.M.P.(I) (COMM.) 197/2024 and connected matters

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1. The petitioners have approached this Court under Section 9 of the Arbitration and Conciliation Act, 1996 [“the Act”], for interim measures of protection in anticipation of arbitral proceedings under separate Concession Agreements dated 20.06.2013 [“the Agreements”].
2. The Agreements essentially provided for the petitioners to induct buses for public transport in Delhi, subject to the terms and conditions contained therein. Although the term of the Agreements was for a period of ten years, it is the contention of the petitioners that the respondent belatedly provided the necessary infrastructure for induction of the buses, as a result of which, the buses were inducted only in a staggered manner. The petitioners contend that the tenure of the Agreement has to be computed accordingly.
3. It appears that the parties were unable to achieve consensus on this issue and the petitioners therefore invoked arbitration by communications dated 30.05.2024.
4. The petitioners have approached this Court for the following reliefs:
 - “(i) extend the validity of the permits of the buses, which expire, till the last bus inducted in the fleet completes 10 years of operation;*
 - (ii) continue to schedule Petitioner's buses, subject to bus being road worthy till all the buses in Petitioner's fleet have completed 10 years of operations to ensure co-terminus of the entire fleet;*
 - (iii) Such other relief that this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may kindly be granted in favour of the parties.”*
5. By an interim order dated 10.06.2024, the Court extended the petitioners’ permits until 15.07.2024.
6. The respondent has filed replies to the petitions, copies whereof



have been handed over in Court and are taken on record. In the replies, it has been stated that the respondent has, by order dated 14.06.2024, extended the concession period *“initially for an additional period of 9 (nine) months from 16.07.2024 to 15.04.2024”*, subject to the conditions contained therein.

7. In view of the above, Mr. Sushil Dutt Salwan, learned Senior Counsel for the petitioner, and Mr. Sameer Vashisht, learned counsel for the respondent, submit that no further orders are required in these petitions under Section 9 of the Act.

8. Learned counsel for the parties, however, submit that arbitration proceedings under the same Agreements, albeit with regard to a different dispute, are pending before Hon’ble Mr. Justice Kailash Gambhir, former Judge of this Court. They jointly request that disputes which are subject matter of the present petitions, be referred to arbitration in these proceedings itself, and the same learned Arbitrator be appointed.

9. At the request of learned counsel for the parties, it is directed that disputes between the parties under the Concession Agreements dated 20.06.2013, which form subject matter of the present petitions, are also referred to arbitration of Hon’ble Mr. Justice Kailash Gambhir, former Judge of this Court [Tel: 9871300033]. The parties may place their respective statements of claims and counter-claims, if any, before the learned Arbitrator, in addition to any applications under Section 17 of the Act, if necessary.

10. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.

11. These proceedings will be treated as independent proceedings for



all purposes, and the remuneration of the learned Arbitrator will be fixed in terms of Schedule IV of the Act.

12. The petitions, alongwith pending applications, are disposed of in terms aforesaid, without prejudice to the rights and contentions of the parties in the proposed arbitral proceedings.

PRATEEK JALAN, J

JULY 15, 2024
SS/