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

+ **ARB.P. 940/2024**

MR. ASHWANI GARG

.....Petitioner

Through: Mr. Avinash Trivedi, Mr. Anurag
Kaushik, Mr. Rahul Aggarwal,
Advocates.

versus

**DELHI TOURISM AND TRANSPORTATION DEVELOPMENT
CORPORATION LTD.**

.....Respondent

Through: Appearance not given.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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24.07.2024

1. The petitioner seeks appointment of an arbitrator to adjudicate disputes between the parties under an agreement for construction of a school. The respondent awarded the contract to the petitioner by way of a letter of acceptance dated 21.01.2016.
2. Clause 25 of the General Conditions of Contract provides for settlement of disputes and arbitration. It requires a pre-arbitration dispute resolution mechanism culminating in an appeal to the Dispute Redressal Committee ["DRC"] of the respondent, which is to decide the matter within a period of 90 days from receipt of the contractor's appeal. In the event of either party being dissatisfied with the decision of the DRC, the matter is to be referred to arbitration.
3. It is the admitted position that the petitioner, by a communication



dated 14.08.2021, sought constitution of a DRC, but this was not done.

4. Although learned counsel for the respondent submits that there is now a DRC in place, I am of the view that the petitioner cannot be compelled, at this late stage, to take recourse to that procedure in light of the respondent's inaction at the time the claim was sought to be submitted to the DRC.

5. Learned counsel for the respondent does not raise any other dispute with regard to the relief sought in the present petition.

6. For the aforesaid reasons, the petition is allowed and the disputes between the parties under the aforesaid contract are referred to arbitration of Hon'ble Ms. Justice Mukta Gupta, former Judge of this Court [Tel:- 96507-88600]. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.

7. At the request of learned counsel for the parties, the arbitration proceedings will be held under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi ["DIAC"], and the arbitration proceedings will be governed by the Rules of DIAC, including as to remuneration of the learned Arbitrator.

8. All rights and contentions of the parties are left open for adjudication by the learned arbitrator.

9. The petition stands disposed of with the aforesaid directions.

PRATEEK JALAN, J

JULY 24, 2024
"Bhupi"/