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

+ **O.M.P.(MISC.)(COMM.) 511/2024**

S. KUMAR CONSTRUCTIONPetitioner

Through: **Mr. Mukesh Kumar & Mr. Harsh
Kashyap, Advocates.**

versus

GENERAL MANAGER TELEPHONE DEPTT.Respondent

Through: **Mr. Alakh Kumar, Advocate.**

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **12.08.2024**

1. By an order dated 10.07.2024, it was recorded as follows:

"1. Issue notice. Notice may be served upon the respondent by all permissible modes, including through the representative and learned counsel appearing on behalf of the respondent before the learned Arbitrator.

2. This petition, under Section 29A of the Arbitration and Conciliation Act, 1996 ["the Act"], has been filed by the petitioner, who is the claimant in the arbitral proceedings, for extension of the mandate of the learned Arbitrator.

3. It appears prima-facie from the record, particularly the letter of appointment of the arbitrator dated 28.07.2022, that the learned Arbitrator has been appointed by the Chief General Manager, Haryana Telecom Circle, BSNL. In view of the prevailing legal position regarding the impermissibility of a unilaterally appointed arbitrator to conduct arbitration proceedings, learned counsel on both sides will also take instructions and file affidavits within one week from today, specifically stating as to whether their clients wish to waive the applicability of Section 12(5) of the Act in terms of the judgment of the Supreme Court in Bharat Broadband Network Ltd. v. United Telecoms Ltd. [(2019) 5 SCC 755].



4. *List on 12.08.2024.”*

2. Learned counsel for both parties state that they have filed affidavits waiving the applicability of Section 12(5) of the Arbitration and Conciliation Act, 1996 [“the Act”]. The affidavit of the respondent is on record. The affidavit of the petitioner was, apparently, returned under objections. A copy of the same has been handed over in Court and is taken on record. Both the affidavits clearly state that the parties waive their rights under Section 12(5) of the Act.

3. Learned counsel for the parties also submit that the arbitral proceedings are at the stage of final hearing, and they have no objection to the extension sought.

4. The petition is therefore allowed, and the mandate of the learned arbitral tribunal is extended until 08.12.2024.

5. The parties are directed to place the copies of these affidavits on record of the arbitral tribunal also.

6. The petition is disposed of in terms of the above.

PRATEEK JALAN, J

AUGUST 12, 2024

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