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

+ **ARB.P. 1087/2023**

GPC INFRASTRUCTURE LIMITED

..... Petitioner

Through: Mr Vinam Gupta and Ms Megha
Rana, Advs.

versus

NATIONAL HIGHWAYS AUTHORITY OF INDIA

..... Respondent

Through: Mr Alok Kumar Jain, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

05.02.2024

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1. This is a petition under Section 11 (6) of Arbitration & Conciliation Act, 1996 seeking appointment of an Arbitrator to resolve dispute between the parties.

2. As per the petition, the petitioner was awarded a tender for undertaking fee collection process at the Vantada Fee Plaza located between 388.180 to 443.00 km on the stretch of Ratanpur-Himmatnagar, National Highway No. 8, in the State of Gujarat. The Arbitration Clause is contained in clause 27 of the contract dated 20.09.2018 which reads as under:

“27. ARBITRATION:

(a) All disputes and/or difference except those which are mentioned in the matters non-arbitral under Clause 26 above arising between the parties out of this Contract shall be settled by Arbitration under and in accordance with the provisions of



the Arbitration and Conciliation Act, 1996. The Chairman of the Authority or his nominee shall be the sole Arbitrator. The award made and published in pursuance of such Arbitration proceedings shall be final and binding on both the parties.

(b) The proceedings of the Arbitration shall be held in English language and shall be held at such place as may be decided by the Chairman of the Authority or his nominee. The award of the Arbitration shall be final and binding on both the parties to the Contract.

(c) Pending resolution of any dispute pursuant to Arbitration, under all circumstances the Contractor shall continue to remit the agreed instalments of money to the Authority as prescribed in this Contract including when the dispute is about the amount to be remitted.

(d) The contract agreement shall be governed by and construed in accordance with the laws of India and the Courts at New Delhi shall have the exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the contract agreement”

3. Since there were disputes between the parties, the Notice invoking arbitration was issued by the petitioner on 13.12.2022.
4. The respondent has filed a reply which is not on record. He has handed over a copy of the reply which is taken on record.
5. The defence of the respondent is that the disputes are not arbitrable and that the petitioner is not entitled to the claims sought.



6. According to me, these are issues which shall be decided by the learned Sole Arbitrator.

7. With these observations, the petition is allowed. Since the parties are still having disputes between them, the following directions are issued:-

- i) Mr. Sumeet Pushkarna, Adv. (Mobile No. 9811042847) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- ii) 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 the Fourth Schedule of the Arbitration & Conciliation Act, 1996.
- iii) The learned Arbitrator is 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 on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
- v) The parties shall approach the learned Arbitrator within two weeks from today.

JASMEET SINGH, J

FEBRUARY 5, 2024

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Click here to check corrigendum, if any