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

+ **ARB.P. 1128/2023**

M/S K.S JAIN

..... Petitioner

Through: **Mr. Shalinder Saini, Ms. Rashmi
Malhotra, Advs.**

versus

GENERAL MANAGER NORTHERN RAILWAY & ANR.....

Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **18.01.2024**

1. This is a petition seeking appointment of an Arbitrator in terms of Clause 64 of the General Conditions of the Contract.
2. The brief facts are that the respondents floated the Tender No. 77-DRM-MB-19-20, wherein the petitioner participated. The petitioner was declared a successful bidder and was awarded the tender. Thereafter, the respondent was of the view that the petitioner has not met the dead line.
3. Since there were disputes, the petitioner invoked the Arbitration Clause by the notice dated 10.07.2023. Thereafter, the respondent terminated the awarded contract on 14.07.2023.
4. On receipt of the notice of invocation of Arbitration Clause, the respondent on 21.07.2023 addressed a letter seeking waiver of applicability of Section 12 (5) and Section 31 A(5) of the Arbitration and Conciliation Act, 1996. The same was not agreed to by the petitioner.
5. Hence, the present petition.
6. The notice was issued on 09.11.2023 in the present matter.
7. As per the service report, the respondent has been served by ordinary



process. Despite service, there is no appearance on behalf of the respondent.

8. Since the parties are still having disputes between them, the petition is allowed and the following directions are issued:-

i) Mr. Kamlesh K. Bhuchar, Adv. (Mob. No. 9312228630) 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.

9. The petition is allowed and disposed of in the aforesaid terms.

JANUARY 18, 2024/NG

JASMEET SINGH, J