



2024-DHC-4126



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of decision: 13th May, 2024**

+ **ARB.P. 1168/2023**
PARNIKA COMMEERCIAL AND ESTATE PVT. LTD.
..... Petitioner
Through: Mr. Swetabh Sharma, Advocate.
versus

UNION OF INDIA Respondent
Through: Mr. Shashank Garg, CGSC with Ms.
Nishtha Jain, Advocate.

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+ **ARB.P. 1200/2023**
PARNIKA COMMEERCIAL AND ESTATE PVT. LTD.
..... Petitioner
Through: Mr. Swetabh Sharma, Advocate.
versus

1. **UNION OF INDIA** Respondent No. 1
2. **THE CHIEF CONSTRUCTION ENGINEER (R&D)**
..... Respondent No. 2
Through: Ms. Monika Arora, CGSC with Mr.
Subhrodeep Saha, Advocate.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

JUDGMENT (oral)

1. The present Petitions under Section 11(6) of the Arbitration and Conciliation Act, 1996 (*hereinafter referred to as the "Act, 1996"*) have been filed on behalf of the petitioner seeking appointment of a sole Arbitrator for adjudication of the disputes having arisen between the parties.



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2. It is submitted that the petitioner is a Private Limited Company engaged in the business of construction activities and being Class-I “S” Contractor is registered with the various Government Departments.
3. The respondent invited the Item Rate e-Tenders for the work of Provision of Civil Works for various Buildings, including Allied Services, Electrification, including DG Set, EOT Crane, Arboriculture Works and Furniture for Technical Facility at Site JM with estimated tender costs of Rs. 6898.00 lakhs (*hereinafter referred to as “Site JM”*) and Item Rate Tenders for the work of Provision of Admin Infrastructure and Road Works at Site TTR (*hereinafter referred to as “Site TTR”*).
4. It is submitted that the bids for the amount of Rs. 43,60,17,077/- for the Site TTR and Rs. 70,40,15,415/- for the Site JM were offered by the petitioner and the same were duly accepted by the respondent *vide* Acceptance Letter dated 29.02.2016. The Contract Agreement was executed *vide* CA No. CCE (R&D) CENTRAL/DRD-SPIC/21 OF 2012-13 dated 29.10.2012 between the parties respectively. However, there were various hindrances on the part of the respondents in the execution of the work which caused delay in completing the project within the stipulated period.
5. The stipulated time for commencement and completion of projects at Site JM and Site TTR was 29.02.2016 and 28.08.2017 and 29.10.2012 and 28.10.2014 respectively.
6. However, the said work at Site JM and Site TTR was completed on 25.11.2017 and 15.09.2016, after 21 months’ and 46 months’ extension respectively granted by the respondents without levy of any compensation.
7. It is submitted that the respondents were under the contractual obligations, to release the payments against the Final Bill within 3^{1/2} from



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the date of completion.

8. Till date, the respondents have made the payment of 14 Running Bills for the work done at Site JM amounting to Rs. 75,31,43,000/- and Rs. 79,59,332/- for the work done at Site TTR, out of the total dues.

9. The petitioner *vide* Letters dated 02.02.2021 and 04.02.2021 approached the Chief Executive (CW&E) and Chief Construction Engineer (R&D) Central as per Clause 47 of the Agreement for appointment of Arbitrator for settlement of their disputes arising out of work done at Site JM and Site TTR respectively.

10. It is submitted that despite seeking Invocation of Arbitration *vide* Letters dated 02.02.2021 and 04.02.2021, the respondents have failed to appoint any Arbitrator. Therefore, the present petitions have been filed on behalf of the petitioner for appointment of Arbitrator.

11. Learned counsels appearing on behalf of the respondents submit that without prejudice to the rights and contentions, the Arbitrator may be appointed.

12. **Submissions heard.**

13. In view of the submissions made as well as there is a valid Clause 47 in the Contract which provides for arbitration between the parties and the arbitrable disputes raised in the petitions, without prejudice to the rights and contentions of the parties, the present petitions are allowed and Mr. Justice Vipin Sanghi, Chief Justice of Uttarakhand High Court (Retd.), Mobile No. 9871300037, is hereby appointed as the sole Arbitrator to adjudicate the disputes between the parties.

14. The parties are at liberty to raise their respective objections before the Arbitrator.



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15. The fees of the learned Arbitrator would be fixed in accordance with the Fourth Schedule of the Act, 1996 or as consented by the parties.
16. This is subject to the Arbitrator making necessary disclosure as under Section 12(1) of the Act, 1996 and not being ineligible under Section 12(5) of the Act, 1996.
17. The parties are directed to contact the Arbitrator within one week of being communicated a copy of this Order to them by the Registry of this Court.
18. Accordingly, the present petitions are disposed of in the above terms.

(NEENA BANSAL KRISHNA)
JUDGE

MAY 13, 2024
S.Sharma