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

+ **ARB.P. 1237/2023, I.A. 23411/2023, I.A. 23412/2023**

SUDHAKAR SAMAL

..... Petitioner

Through: Mr. Yugal Kishor, Advocate.

versus

GOVT OF NCTD

..... Respondent

Through: Mr. Jawahar Raja ASC with Mr. Parth Goyal and Ms. Rashi Jain, Advocates.

Mr. Anil Kumar Sharma, Asst. Engineer, PWD.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

30.01.2024

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1. Petition under Section 11(6) of the Arbitration & Conciliation Act, 1996 for appointment of the Arbitrator has been filed on behalf of the petitioner.

2. A short Affidavit has been filed on behalf of the respondent, wherein it is submitted that in terms of General Conditions of Contract for Central P.W.D Works, 2014 a detailed procedure before engaging an Arbitrator has been prescribed, according to which the claims may be first raised before the Superintending Engineer, if dissatisfied, the Chief Engineer may be approached. However, if the dissatisfaction still continues, an Appeal be preferred before the Disputes Resolution Committee (DRC). In case, there is still dissatisfaction, a Notice be given to the Chief Engineer for



appointment of the Arbitrator on the prescribed proforma.

3. It is submitted that the petitioner has not followed the due procedure. The petitioner may be first directed to follow the due procedure as prescribed in the General Conditions of Contract, after which the request may be made to the Chief Engineer who would then appoint the Arbitrator.

4. Learned counsel for the petitioner submits that due procedure has been followed. Letter dated 27.06.2022 was written to the Superintending Engineer followed by letter dated 21.12.2022 to the Chief Engineer. The DRC was duly constituted and the same was attended by the petitioner on 17.04.2023 and 24.04.2023. He had in his letter dated 21.12.2022, requested the Chief Engineer that since the dispute could not be settled and no response was received from the Superintending Engineer, the Arbitrator may be appointed under Arbitration & Conciliation Act, 1996 for adjudication of the claims as stated therein.

5. Though, this Notice has been issued before approaching the DRC, but the intention of the petitioner to invoke Arbitrator is evident from the letters referred above, but also from the filing of the present petition seeking appointment of the Arbitrator. Despite service of Notice and having filed a short affidavit, the respondent has not been forthcoming for appointment of the Arbitrator.

6. Prima facie the petitioner through various letters has shown that the due process as contemplated under General Conditions of Contract, has been followed by him.

7. Considering that that the disputes have arisen due to recovery of Rs.2,62,000/- and admittedly there is a valid Arbitration Clause, the petition is allowed. Parties are referred to the Delhi International Arbitration Centre



(DIAC) which shall appoint an Arbitrator from the panel for adjudication of disputes.

8. The appointment of the Arbitrator shall be governed by the rules framed by the DIAC including the fees and the disclosure to be made by the learned Arbitrator in conformity of Section 12 of the Arbitration and Conciliation Act, 1996.

9. The parties to appear before the Co-ordinator, DIAC on 08.02.2024.

10. The petition is accordingly disposed of.

11. Let a copy of this order be sent to the Co-ordinator, DIAC.

NEENA BANSAL KRISHNA, J

JANUARY 30, 2024/va