



2024:DHC:8357



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

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Date of Decision: 28.10.2024+ **ARB.P. 1211/2024****HARCHARAN DASS GUPTA**

.....Petitioner

Through: Ms. Renuka, Advocate.

versus

WAPCOS LIMITED AND ANR.

.....Respondents

Through: Mr. Varun Sharma, Advocate.

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (Oral)**

1. The present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter '*the A&C Act*') seeks appointment of a sole arbitrator to adjudicate the disputes between the parties. The disputes between the parties have arisen in the context of an agreement between the parties for work relating to construction of a Boundary Wall, Gate and Guard Room for the Central Training College of ITBP at Alwar, Rajasthan (hereinafter '*the Work*').

2. It is submitted by the petitioner that the work in question thereof started on 04.07.2016 and was scheduled to be completed by 03.10.2017. However, due to constant alterations occasioned at the behest of the respondents, the work was marred with delays and could not be completed within the stipulated time. Serious disputes between the parties arose as regards the entitlement of the petitioner under the agreement. The respondent no.1 also issued a notice of termination to the petitioner directing



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the petitioner to complete the remaining work within a period of 45 days and cautioned that a failure could lead to termination without notice.

3. Further correspondences ensued between the parties and attempts are also stated to have been made to amicably resolve the matter; however disputes between the parties continued to fester. Eventually, the petitioner served an invocation notice dated 12.12.2023 to the respondent. The same was responded to by the respondent *vide* letter dated 12.01.2024, proposing the name of certain persons who could be appointed as a sole arbitrator. However, the parties could not mutually agree in this regard. Consequently, the present petition has come to be filed.

4. The respondent does not dispute the existence of the arbitration agreement, however, he submits that the respondent has serious objections as to the maintainability of the claims sought to be raised, including on the ground that the same are hopelessly barred by limitation. However, he accedes to the appointment of a sole arbitrator subject to the respondent's preliminary objections being considered at the very outset, before adjudication of the disputes on merits.

5. Accordingly, with the consent of the parties, Ms. Ruchi Agnihotri, Advocate, (Mobile No.-+91 9873691920) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

6. As agreed by respective counsel, the jurisdictional/preliminary objections as may be raised by the respondent, including as to whether the claims sought to be raised are barred by limitation or not, shall be decided by the learned sole arbitrator at the outset, prior to adjudication of the claims on merits.



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7. It is further agreed by the respective counsel for the parties that the arbitration shall be conducted under the aegis and rules of Delhi International Arbitration Centre (DIAC), and the payment of arbitrator's fees and arbitral cost, shall be governed by the said rules. It is directed accordingly.
8. The learned sole arbitrator may proceed with the arbitral proceedings subject to furnishing to the parties requisite disclosures as required under Section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the parties are given liberty to file an appropriate application in this court.
9. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Sole Arbitrator on their merits, in accordance with law.
10. The present petition stands disposed of.

SACHIN DATTA, J

OCTOBER 28, 2024/at