



2024:DHC:7488



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

+ **ARB.P. 1291/2024**

M/S JAKSON ENGINEERS LIMITEDPetitioner

Through: **Mr. Dhruv Pande, Adv.**

versus

NORTHERN RAILWAYSRespondent

Through: **Mr. Bhagvan Swarup Shukla,**
CGSC with Ms. Vandana, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGMENT (ORAL)

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24.09.2024

1. This is a petition under Section 11(5) of the Arbitration and Conciliation Act 1996¹ for reference of dispute between the parties to arbitration.

2. The dispute arises in the context of Contract Agreement No. IROAF/Solar/DEMU/P1 dated 23 December 2015 executed between the petitioner and the respondent.

3. The arbitration Clause governing resolution of disputes between the parties reads thus:

“Appointment of Arbitrator:

61 (3) (a) (i) - In cases where the total value of all claims in question added together does not exceed Rs.25,00,000/- (Rupees twenty five lakh only), the Arbitral tribunal shall consist of a sole arbitrator who shall be a gazetted officer of Railway not below JA

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¹ “the 1996 Act”, hereinafter

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grade, nominated by the Chief Administrative Officer. The sole arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by CAO.”

4. The petitioner issued a notice to the respondent under Section 21 of the 1996 Act, seeking reference of the dispute to arbitration on 3 May 2024. The notice sent by the petitioner did not elicit any favourable response. Thereafter, on 11 May 2024, the petitioner sent another Section 21 notice to the respondent, seeking invocation of arbitration clause. However, the respondent did not reply to the said notice.

5. It is in these circumstances that the petitioner has approached this Court under Section 11(5) of the 1996 Act to appoint an Arbitrator.

6. The only objection of the respondent is that the petitioner has not complied with the protocol envisaged in Clause 61(3)(a)(ii) of the agreement.

7. Learned counsel for the petitioner points out that, as the claim of the petitioner is less than ₹ 25 lakhs, the Clause 61(3)(a)(ii) does not apply. Clause 61(3)(a)(i) does not envisage any pre-arbitral protocol.

8. Accordingly, as the parties have not been able to arrive at a consensus regarding arbitration, Court has necessarily to step in and appoint an arbitrator.

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9. The claim of the petitioner against the respondent is stated to be in the region of ₹ 22 lakhs.

10. Accordingly, this Court appoints Mr. Lalit Satija, Advocate, (Tel: 9810232590) as the arbitrator to arbitrate on the dispute between the parties.

11. The learned arbitrator shall be entitled to charge fees as per the Fourth schedule of the 1996 Act.

12. The learned Arbitrator is also requested to file requisite disclosure under Section 12(2) of the 1996 Act prior to entering on the reference.

13. All questions of fact and law preliminary as well as on merits shall be left open to be agitated in the arbitral proceedings.

14. The petition stands allowed in the aforesaid terms.

C. HARI SHANKAR, J.

SEPTEMBER 24, 2024

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Click here to check corrigendum, if any

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