



2024:DHC:8559



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 05.11.2024

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ARB.P. 1380/2024 and IA Nos.38705/2024, 44176/2024

JONES LANG LASALLE

PROPERTY CONSULTANTS INDIA PVT. LTD.Petitioner

Through: Mr. Arun Sri Kumar and Mr.
Abhyudaya Shishodia, Advocates.

versus

RAJASTHAN URBAN DRINKING WATER

SEWERAGE AND INFRASTRUCTURE CORPORATION LIMITED

.....Respondent

Through: Dr. P.C. Jain, Mr. Bonny Mehra and
Mr. Kriti Jain, Advocates.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. The present petition under Section 11(6) of Arbitration and Conciliation Act, 1996 seeks appointment of a sole arbitrator to adjudicate the disputes between the parties.
2. The disputes between the parties have arisen in the background of the Request for Proposal (RFP) issued by the respondent on 15.02.2017 inviting proposals for consulting services for "Improvement of Revenue from Advertisement Tax for Smart and Atal Mission for Rejuvenation and Urban Transformation ("AMRUT") cities development in Rajasthan (Jodhpur, Pali, Beawar, Nagaur, Kishangarh, Bhilwara, Chittorgarh, Bundi- AMRUT cities)". In response to the said RFP, the petitioner submitted its bid and was awarded the Package-III contract *vide* petitioner's letter of acceptance dated



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22.06.2017.

3. Thereafter, the formal contract agreement for Package-III was executed on 19.07.2017, whereby it was agreed that the petitioner would offer its consultancy services for improvement of revenue from advertisement tax for AMRUT cities development in Rajasthan as provide under Package-III.

4. The tenure of the said contract was to be for a period of 9 months. According to the petitioner, it was agreed that the petitioner would received a sum of Rs.72,90,000/- alongwith GST as consideration/payment for services rendered by it. The aforesaid amount was payable in stages based on milestones to be achieved. The disputes between the parties have arisen with regard to the monetary entitlement of the petitioner.

5. The General Conditions of Contract (GCC) applicable to the contract between the parties contains a dispute resolution clause in the following terms:

"Clause 45 of the GCC:

"45. Dispute Resolution: 45.1 Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to by either Party to the adjudication/arbitration in accordance provisions specified in the SCC."

6. The Clause 45.1 of the Special Condition of Contract (SCC) provides as under :-

"Clause 45 .1 of the SCC

45.1 Disputes shall be settled by arbitration in accordance with the following provisions:

1. Selection of Arbitrators: Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three (3) arbitrators, in accordance with the following provisions:



. . . . (b) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultant shall each appoint one (1) arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two (2) arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by Secretary, the Indian Council of Arbitration, New Delhi.

(c) If, in a dispute subject to paragraph (b) above, one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the Secretary, Indian Council of Arbitration, New Delhi, to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.”

7. Disputes having arisen between the parties, a notice of invocation dated 27.07.2021 was issued by the petitioner whereby the petitioner, *inter alia*, sought to nominate its nominee arbitrator.

8. The respondent responded to the said invocation notice on 09.09.2021 stating that “appointment of arbitrator is under process and the same will be intimated shortly”. Admittedly, however, the requisite appointment was not made by the respondent within a period of 30 days from the receipt of notice of invocation of arbitration. Consequently, the petitioner approached the Indian Council of Arbitration (ICA) for appointment of a sole arbitrator as provided in the relevant clause of SCC.

9. However, the ICA did not act in terms of the request made by the petitioner for the reason that the respondent purported to appoint its nominee arbitrator belatedly. Hence, the present petition has come to be filed.

10. After some hearing, respective counsel for the parties are in agreement that an independent sole arbitrator be appointed to adjudicate the disputes between the parties.



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11. Accordingly, Mr. Jayant Kumar, Advocate (Mob. No.: +91.9654425878) is appointed as the sole arbitrator to adjudicate the disputes between the parties.

12. The parties shall be at liberty to raise their respective claims/counter-claims before the learned Sole Arbitrator. It shall be open to the respondent to raise jurisdictional/preliminary objections, if any, as regards claims sought to be raised by the petitioner in the arbitral proceedings. The same shall necessarily be considered and decided by the learned Sole Arbitrator in accordance with law.

13. Although the seat of arbitration is Delhi, the arbitrator shall be entitled to have Jaipur as the venue of arbitration, if a request to this effect is made by any of the parties.

14. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosures as required under Section 12 of the A&C Act.

15. The learned Sole Arbitrator shall be entitled to fee in accordance with IVth Schedule to the A&C Act; or as may otherwise be agreed to between the parties and the learned Sole Arbitrator.

16. The parties shall share the arbitrator's fee and arbitral costs, equally.

17. Needless to say, nothing in this order shall be construed as an expression of this Court on the merits of the case.

18. The present petition is disposed of in the above terms. Pending applications also stand disposed of.

NOVEMBER 5, 2024/at

SACHIN DATTA, J