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

+ **O.M.P.(I) (COMM.) 325/2024 & I.A. 40018/2024**

**M/S RUDRANEE INFRA-MANISHA
CONSTRUCTION (JV)**

.....Petitioner

Through: Mr. Sandeep Sethi, Senior
Advocate with Ms. Gunjan
Chhabra, Mr. Dakesh Matta, Mr.
Sarthaak Arora & Ms. Shriya
Mishra, Advocates.

versus

**NATIONAL HIGHWAYS AUTHORITY
OF INDIA & ANR.**

.....Respondents

Through: Mr. Manish K. Bishnoi & Mr.
Khubaib Shakeerl, Advocates for
R-1/NHAI.
Mr. Santosh Kumar Rout, Standing
Counsel for PNB with Ms. Dharma
Veragi, Advocate for R-2/PNB
[M:-9990432878]

**CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN**

**ORDER
23.09.2024**

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1. In the course of hearing, learned counsel for the parties agree, upon instructions, that the disputes between the parties under the contract dated 31.03.2023 entitled "*Engineering, Procurement and Construction Agreement*" ["the Agreement"] may be referred to arbitration in these proceedings itself.

2. The dispute resolution clause [Article 26] provides for a multi-



tiered dispute resolution process, successively before a Dispute Resolution Board [“DRB”], Conciliation Committee of Independent Experts and arbitration. Although some of the disputes have been referred to DRB, learned counsel have taken instructions and agree that the matter may be referred right away to arbitration under the aegis of Society for Affordable Redressal of Disputes [“SAROD”], as provided in article 26.3.1 of the Agreement.

3. The Rules of SAROD provide for a three-member arbitral tribunal, to be chosen from the list of arbitrators empanelled by it. Mr. Sandeep Sethi, learned Senior Counsel for the petitioner, states that the petitioner wishes to nominate Hon’ble Mr. Justice Pradeep Nandrajog, former Chief Justice of Rajasthan and Bombay High Courts as its nominee Arbitrator. Mr. Manish K. Bishnoi, learned counsel for the respondent - National Highways Authority of India, states that the respondent wishes to nominate Hon’ble Mr. Justice V. Ramasubramanian, former Judge, Supreme Court of India as its nominee Arbitrator. Both learned counsel request the Court to nominate a presiding arbitrator from the panel, so that the tribunal can be constituted forthwith. Acceding to this request, Hon’ble Mr. Justice A.K. Patnaik, former Judge, Supreme Court of India [Tel: +91-11-2693011] is appointed as the presiding Arbitrator.

4. The petitioner will be at liberty to make an application under Section 17 of the Arbitration and Conciliation Act, 1996 before the learned arbitral tribunal and to request the learned arbitral tribunal to consider the same as expeditiously as possible, at least on the question of *ad interim* relief.

5. It is noted that the respondent has not yet invoked the bank



guarantees furnished by the petitioner in connection with the subject Agreement. Any action taken by the respondent will abide by and be subject to the directions of the arbitral tribunal.

6. It is made clear that this Court has not adjudicated the rights and contentions of the parties, even on a *prima facie* basis. All rights and contentions are left open for adjudication by the learned arbitral tribunal.

7. The petition, alongwith pending applications, stands disposed of.

PRATEEK JALAN, J

SEPTEMBER 23, 2024

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