



\$~2

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

+ **ARB.P. 303/2024**

M/S POSHAK MANSON PVT. LTD.Petitioner

Through: Mr. Shashank Bajpai, Adv.

versus

NATIONAL SEEDS CORPORATION LTDRespondent

Through: Mr. Sanjay K. Shandilya, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

12.08.2024

%

1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of Sole Arbitrator to adjudicate the disputes between the parties.
2. The respondent invited an open tender from the public for works to be carried out at National Seeds Corporation of India for supplying, installation and operation of 2 TPH Fodder Block Making Unit.
3. The bid of the petitioner was accepted and the parties entered into an Agreement dated 31.03.2015.
4. When the respondent was required to be made payment, the respondent alleged violation of the terms of the agreement by the petitioner.
5. Since there were disputes between the parties, the petitioner invoked arbitration *vide* Legal Notice dated 26.06.2023.
6. The arbitration clause is clause 19 of the GCC of the Tender Document, which reads as under:-



“19. Settlement of disputes:-

All disputes in relation to the tender, the contract or the interpretation of any of their terms or implementation thereof or arising out of or concerned directly or indirectly with the contract shall be referred to the arbitration or a single arbitrator to be appointed by the Chairman-cum-Managing Director of the Corporation/purchaser and in the absence of CMD, the highest Executive Officer of the Corporation shall make such appointment. The venue of arbitration shall be at New Delhi. The court of law at the New Delhi/Delhi alone will have jurisdiction in the matter of any disputes whatsoever.

The arbitrator shall have powers to enlarge time for making & publishing the award with the consent of the parties. The parties will have no objection to the appointment of the arbitrator on the ground that the arbitrator had dealt with the matter of any earlier stage. If the claims involved in a dispute are of more than Rs.1.00 lakh the arbitrator shall make a speaking award as per provision of Arbitration & Reconciliation Act 1996. In case the supplier is a Public Sector Undertaking, the above clause shall not be applicable and in that event the following clause shall apply.

In the event of any dispute or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party for arbitration to the sole arbitrator in the Department of Public Enterprises to be nominated by the Secretary to the Govt. of India, In charge of the Department of Public Enterprises. The arbitration & conciliation Act, 1996 shall not be applicable to the arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make 2 further reference for setting aside or revision of the award to the Law Secretary, Department of Legal and Affairs, Ministry of Law and



Justice, Govt. of India. Upon such reference, the dispute shall be decided by the Law Secretary or the Special Secretary/Additional Secretary when so authorized by the Law Secretary whose decision shall bind the parties finally and conclusively. The parties to the disputes will share equally the cost of arbitration as intimated by the Arbitrator.”

7. The notice was issued in the petition and Mr. Shandilya, learned counsel appears for the respondent and has filed a reply, which is on record.

8. Mr. Shandilya, learned counsel has no objection to appointment of an arbitrator provided all the claims/counter claims, objections and legal objection on merit of the respondent are left open.

9. For the said reasons, the petition is allowed. Since the parties are still having disputes between them, the following directions are issued:-

i) Ms. Shobhna Takiar, Adv (Mob. No. 9810962950) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.

ii) The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the ‘DIAC’). The remuneration of the learned Arbitrator shall be in terms of the Fourth Schedule of the Arbitration & Conciliation Act, 1996.

iii) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.

iv) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims/counter-claims and



merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.

v) The parties shall approach the learned Arbitrator within two weeks from today.

JASMEET SINGH, J

AUGUST 12, 2024/NG

[Click here to check corrigendum, if any](#)