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

+ **ARB.P. 1563/2024 & I.A. 41261/2024**

M/S R B ENTERPRISES

.....Petitioner

Through: Mr. Gaurav Aggarwal, Ms. Mahima Misra, Mr. Arvind Misra, Mr. Nitin Gupta, Mr. Rishabh Chaudhary & Mr. Naman Agarwal, Advocates.

versus

UNION OF INDIA AND OTHERS

.....Respondents

Through: Mr. Anshuman, SPC with Mr. Kapil Dev Yadav, Advocate and Mr. Rahul Kumar Sharma, GP for UoI.

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Through: Mr. Anshuman, SPC with Mr. Kapil
Dev Yadav, Advocate and Mr. Rahul
Kumar Sharma, GP for UoI.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

04.10.2024

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1. The Petitioner has approached this Court under Section 11(6)(C) read with Section 43(4) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to adjudicate the disputes between the parties.
2. It is stated that a Request for Proposal (RFP) for procurement of Sharbati Rice or its equivalent was issued by the Army Purchase Organisation (APO). It is stated that the Petitioner supplied the Sharbati Rice as per the specifications but the same was rejected by the Respondent by giving vague reasoning and a termination letter was issued cancelling the contract between the parties on account of non-supply.
3. It is stated that the Petitioner filed a petition under Section 9 of the Arbitration & Conciliation Act, 1996 restraining the Respondent from invoking the bank guarantees by the Respondent and this Court *vide* Order dated 22.03.2018 in OMP(I)(COMM) No.460/2017 directed the Petitioner to keep the Bank Guarantee alive till the disposal of the arbitration proceedings and for a further period of one month thereafter.
4. It is stated that on 09.07.2020 an interim order passed by the learned Arbitrator whereby the Respondent was directed to encash the bank guarantee.



5. It is stated that the claim of the Petitioner was dismissed by the learned Sole Arbitrator on 14.12.2021. Aggrieved by the dismissal of the said claim, the Petitioner challenged the said Award under Section 34 of the Arbitration & Conciliation Act, 1996 before the learned District Judge (Commercial Court), Patiala House Courts, New Delhi. The learned District Judge (Commercial Court), Patiala House Courts, New Delhi *vide* Judgment dated 05.09.2024 has set aside the Award dated 14.12.2021 and the Petitioner has approached this Court by filing the instant petitions under Section 11(6)(C) read with Section 43(4) of the Arbitration and Conciliation Act, 1996 for appointment of a Sole Arbitrator.

6. During the course of hearing, respective Counsel for the parties jointly request that an independent Sole Arbitrator be appointed to adjudicate the disputes between the parties.

7. Accordingly, Ms. Rimali Batra, Adv. (Mob. No.9871205011) is appointed as a Sole Arbitrator to adjudicate upon the disputes between the parties.

8. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

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

10. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.

11. Needless to say, nothing in this order shall be construed as an



expression of this Court on the merits of the contentions of the parties.

12. The petitions are disposed of in the above terms along with pending application(s), if any.

OCTOBER 4, 2024
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SUBRAMONIUM PRASAD, J