

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.125 of 2024

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M/s Vivek Transport Agency through Kumar Vivek, Male, aged about- 39 Yrs. Son of Anil Kumar, resident of Near Murgi Farm, Bich Bazar Saraiya, P.S.- Nalanda, District- Nalanda.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food Civil Supply Corporation through the Managing Director Khadya Bhawan, R. Block, Daroga Prasad Rai Path, Road No.- 2, Patna- 800001.
2. The District Manager, State Food Corporation, Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Deepak Sahay Jamuar, Advocate
For the Respondent/s : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 13-10-2025

The present application is filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as ‘the Act, 1996’) seeking appointment of Arbitrator to adjudicate the disputes that have arisen among the parties under the agreement dated 11.08.2016.

2. Brief facts of the case is that the petitioner and respondents entered into an agreement / contract on 11.08.2016. The agreement contains an Arbitration Clause *namely* Clause 21 of the Notice Inviting Tender which reads as under :

*“21. All disputes arising under or in
pursuance of this agreement between the parties,*



except matters decision of which herein expressly is otherwise provided, shall be referred to sole arbitration of the C.M.D/ Managing Director of the Bihar State Food & Civil Supplies Corporation Ltd. Patna or a person nominated by the C.M.D./ Managing Director decision of such arbitrator shall be final and binding on both the parties. The provisions of the Arbitration and Conciliation Act, 1996 and rules framed thereunder and statutory modifications thereof shall apply to the proceedings of arbitration and all such disputes shall be subject to the jurisdiction of courts at Patna. ”

3. Dispute arises among the parties in respect of partnership. The petitioner invoked arbitration while issuing notice to the respondents on 08.08.2024 calling upon the respondents to concur in appointment of Arbitrator. Despite service of notice, the respondents have failed to act in terms of the arbitration Clause. Learned counsel for the petitioner submits that the arbitration agreement exists and is valid, but the respondents have failed to co-operate in appointment of Arbitrator.

4. Considering the fact that whether valid arbitration agreement among the parties and whether disputes have arisen thereon warranting reference to arbitration, it is admitted that there is agreement and so also valid Clause 21 and it relates to arbitration and it is binding among the respective parties. Disputes



have admittedly arisen among the parties. The respondents have failed to act as required for constitution of arbitral tribunal. In view of the law laid down by the Hon'ble Supreme Court in the case of ***Duro Felguera, S.A. vs. Gangavaram Port Limited*** reported in (2017) 9 SCC 729 and ***Mayavati Trading Private Limited vs. Praduyat Deb Burman*** reported in (2019) 8 SCC 714, the Court, at this stage, is only required to examine the existence of the arbitration agreement and nothing beyond.

5. Perusal of the agreement, it is evident that Clause 21 is crystal clear that there is Arbitration Clause existing. Accordingly, this court is satisfied with the requirement of Section 11 of the Act, 1996 and petitioner has made out a case, therefore, this Court appoints Mr. Justice Prabhat Kumar Jha, Former Judge of Patna High Court, Resident of South of Pillar No. 2 of Railway Over Bridge, Bailey Road, Adjacent to South of Bihar Neeuro Diagnostic Centre, Rukanpura, P.S. - Rupaspur, Patna - 801503 as the sole arbitrator to adjudicate the dispute among the parties. The Learned Arbitrator shall make disclosure under Section 12 of the Act, 1996 before entering upon the reference. Fees of the Arbitrator shall be governed by the Fourth Schedule of the Act, 1996 (unless otherwise agreed by the parties / arbitrator). The present case is accordingly allowed in the above terms.



6. No order as to costs.

7. Registry is hereby directed to communicate the order
to the learned Arbitrator.

(P. B. Bajanthri, CJ)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	15.10.2025
Transmission Date	

