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

+ **ARB.P. 394/2025**

M/S SBG INFRACON PVT. LTD

.....Petitioner

Through: Mr. BK Prabhat, Mr. Bhola, Adv.

versus

**NATIONAL CAPITAL REGION TRANSPORT CORPORATION
LIMITED (NCRTC) & ORS.**

.....Respondent

Through: Mr. Rajesh Katyal, Ms. Seema
Katyal, Adv.

**CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH**

**ORDER
02.05.2025**

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1. This is a petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator for adjudication of disputes between the parties arising out of Contract Agreement dated 08.07.2019.
2. The facts are that the respondent awarded a contract vide Letter of Acceptance No. DM/MS/COR-OF/023 dated 27.05.2019 for the 'widening of Delhi-Meerut Road from Duhai to Modi Nagar for Delhi-Ghaziabad-Meerut RRTS Corridor to the petitioner. Thereafter, an agreement was executed between the petitioner and the respondent on 08.07.2019.



3. The arbitration clause is contained as clause 17.9.2 of the PCC of the Contract Agreement dated 08.07.2019 and the same reads as under: -

“17.9.2 Procedure for Appointment of Arbitrators: The arbitrators shall be appointed as per following procedure:

i) In case of Sole Arbitrator: Within 60 days from the day when a written and valid demand for arbitration is received by MD/NCRTC, the Employer will forward a panel of 03 names to the Contractor. The Contractor shall have to choose one Arbitrator from the panel of three, to be appointed as Sole Arbitrator within 30 days of dispatch of the request by the Employer. In case the Contractor fails to choose one Arbitrator within 30 days of dispatch of the request of the Employer than MD/NCRTC shall appoint anyone Arbitrator from the panel of 03 Arbitrator as sole Arbitrator.

ii) In case of 3 Arbitrators:

a) Within 60 days from the day when a written and valid demand for Arbitration is received by MD/NCRTC, the Employer will forward a panel of 5 names to the Contractor. The Contractor will then give his consent for any one name out of the panel to be appointed as one of the Arbitrators within 30 days of dispatch of the request by the Employer.

b) Employer will decide the second Arbitrator. MD/NCRTC shall appoint the two Arbitrators, including the name of one Arbitrator for whom consent was given by the Contractor, within 30 days from the receipt of the consent for one name of the Arbitrator from the Contractor. In case the Contractor falls to give his consent within 30 days of dispatch of the request of the Employer then MD/NCRTC shall nominate both the Arbitrators from the panel.

c) The third Arbitrator shall be chosen by the two Arbitrators so appointed by the parties out of the panel of 05 Arbitrators



provided to Contractor or from the larger panel of Arbitrators to be provided to them by Employer at the request of two appointed Arbitrators (If so desired by them) and who shall act as Presiding Arbitrator. In case of failure of the two appointed Arbitrators to reach upon consensus within a period of 30 days from their appointment, then, upon the request of either or both parties, the Presiding Arbitrator shall be appointed by the Managing Director/NCRTC, New Delhi.

d) If one or more of the Arbitrators appointed as above refuses to act as Arbitrator, withdraws from his office as Arbitrator, or vacates his/their office/offices or Is/are unable or unwilling to perform his functions as Arbitrator for any reason whatsoever or dies or in the opinion of the MD/NCRTC fails to act without undue delay, the MD/NCRTC shall appoint new Arbitrator /Arbitrators to act in his/their place except in case of new Presiding Arbitrator who shall be chosen following the same procedure as mentioned in para (ii)(c) above. Such re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous Arbitrator(s).

e) The Employer at the matter of offering the panel of Arbitrator(s) to be appointed as arbitrator shall also supply the information with regard to the qualification of the said Arbitrators nominated in the panel along with their professional experience, phone nos. and addresses to the Contractor.”

4. Since there were disputes between the parties, the petitioner invoked arbitration vide letter dated 09.07.2024 and thereafter filed the present petition.

5. Mr. Katyal, learned counsel for the respondent Nos. 1 to 3 states that in the present case, the petitioner has already issued a NoC. However, he very fairly concedes that in view of the decision of the Hon'ble Supreme



Court in ***SBI General Insurance Company Ltd. vs. Krish Spinning*** 2024 SCC OnLine SC 1754, all the issues including issuance of NoC will be decided by the learned arbitrator.

6. Even though, as per the arbitration clause, the arbitral tribunal is to comprise of 3 arbitrators, however, the parties have no objection if a sole arbitrator is appointed.

7. For the said reasons, the petition is allowed and the following directions are issued:-

- i) Ms. Justice Rekha Palli (Retd. Judge Delhi High Court) (Mob. No.9810012120) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- ii) The arbitration will be held under the aegis and rules of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the 'DIAC').
- iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.
- iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- v) 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.



- vi) The parties shall approach the learned Arbitrator within two weeks from today.
8. The present petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

MAY 2, 2025 / (MS)

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