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

+ **ARB.P. 838/2025**

M/S. ORISSA CONCRETE AND ALLIED INDUSTRIES LTD.

.....Petitioner

Through: Mr. Raman Kapur, Sr. Adv with Mr
Mr. Dhiraj Sachdeva, Adv.

versus

**UNION OF INDIA THROUGH EXECUTIVE DIRECTOR
TRACK(MOD), & ORS.**

.....Respondents

Through: Mr. Shashank Bajpai (CGSC), Mr.
Vatsal Tripathi (Adv)

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

20.08.2025

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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.
2. The brief facts of the case are that the respondents invited tenders for manufacture and supply of Pre-stressed Mono-block Concrete Line Sleepers (pre-tensioned type) for Broad Gauge against Tender No. CS-166 of 2013. The petitioner was declared the successful bidder and an Agreement dated 19.12.2013 was executed between the parties.
1. The Agreement contained the arbitration clause being clause 2900 which reads as under:-



“Clause. 2900 Arbitration

- (a). In the event of any question, dispute or difference arising under these conditions or any special conditions of contract, or in connection with this contract (except as to any matters the decision of which is specially provided for by these or the Special conditions) the same shall be referred to the sole arbitration of a Gazetted Railway Officer appointed to be the arbitrator, by the General Manager in the case of contracts entered into by the Zonal Railways and Production Units; by the Member of the Railway Board, in the case of contracts entered into by the Railway Board and by the Head of the Organisation in respect of contracts entered into by the other Organisation under the Ministry of Railways. The Gazetted Railway Officer to be appointed as arbitrator however will not be one of those who had an opportunity to deal with the matters to which the



contract relates or who in the course of their duties as railway servant have expressed views on all or any of the matters under dispute or difference. The award of the arbitrator shall be final and binding on the parties to this contract.

- (b) In the event of the arbitrator dying, neglecting or refusing to act or resigning or being unable to act for any reason, or his award being set aside by the court for any reason, it shall be lawful for the authority appointing the arbitrator to appoint another arbitrator in place of the outgoing arbitrator in the manner aforesaid.
- (c) It is further a term of this contract that no person other than the person appointed by the authority as aforesaid should act as arbitrator and that if for any reason that is not possible, the matter is not to be referred to arbitration at all.
- (d) The arbitrator may from time to time with the consent of all the parties to the contract enlarge the time for making the award.
- (e) Upon every and any such reference the assessment of the cost incidental to the reference and award respectively shall be in the discretion of the arbitrator.
- (f) Subject as aforesaid, the Arbitration and Conciliation Act, 1996 and the rules thereunder and any statutory modifications thereof for the time being in force shall be deemed to apply to the arbitration proceedings under this clause.
- (g) The venue of arbitration shall be the place from which the acceptance note is issued or such other place as the arbitrator at his discretion may determine.
- (h) In this clause the authority to appoint the arbitrator includes, if there be no such authority, the officer who is for the time being discharging the functions of that authority, whether in addition to their functions or otherwise.”



2. Since there were disputes between the parties, a Sole Arbitrator was appointed to adjudicate the disputes. However the Award was set aside by the Hon'ble High Court of Chhattisgarh, Bilaspur *vide* order dated 04.10.2023 and the same was upheld by the Hon'ble Supreme Court.
3. Thereafter, the petitioner sent letter dated 19.06.2024 invoking the Arbitration clause requesting the respondents to appoint an independent Arbitrator for adjudicating the disputes between the parties. However, respondents declined the request of the petitioner *vide* letter dated 16.10.2024 stating therein that after the orders passed by Hon'ble Supreme Court and High Court, no further Arbitration is required in this case.
4. *Vide* order dated 29.05.2025, notice was issued to the respondents and despite opportunity, no reply has been filed.
5. The arbitration clause is not in dispute.
6. To my mind, there are disputes between the parties, which need to be settled through arbitral mechanism.
7. For the said reasons, the petition is allowed and the following directions are issued:-
 - i) Ms. Justice Gita Mittal (Retd. Chief Justice of High Court of Jammu & Kashmir and Ladakh) (Mob. No. 9818000220) 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

AUGUST 20, 2025 / (MS)