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

+ **ARB.P. 977/2025 & I.A. 16550/2025, I.A. 16551/2025**

T.C. CONSTRUCTION

.....Petitioner

Through: Ms. Stuti Jain & Mr. Akshu Jain,
Advs.

versus

DELHI DEVELOPMENT AUTHORITY

.....Respondent

Through: Mr. Sanjay Vashishtha, Mr.
Siddhartha Goswami, Ms. Geetanjali
Reddy, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **15.10.2025**

1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator for the adjudication of disputes between the parties.
2. The facts are that the respondent awarded the work of Development of Service Centre at Sector 9, Dwarka Phase-1; SH: Providing and Laying Internal Water Supply Line in the Service Centre to the petitioner *vide* Award Letter dated 15.11.2014. Subsequently, an Agreement bearing No. 31/EE/WD-10/DDA/2014-15 was executed between the parties.
3. The said Agreement contained an arbitration clause being Clause No. 25, which is extracted below:-



CLAUSE 25

Settlement of Disputes & Arbitration

(A) Except where otherwise provided in the contract, all questions and disputes relating to the meaning of the specifications, design, drawings and instructions herein before mentioned and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings, specifications, estimates, instructions, orders or these conditions or otherwise concerning the works or the execution or failure to execute the same whether arising during the progress of the work or after the cancellation, termination, completion or abandonment thereof shall be dealt with as mentioned hereinafter.

i) If the contractor considers any work demanded of him to be outside the requirements of the contract, or disputes any drawings, record or decision given in writing by the Engineer-in-Charge on any matter in connection with or arising out of the contract or carrying out of the work, to be unacceptable, he shall promptly within 15 days request the Superintending Engineer in writing for written instruction or decision. Thereupon the Superintending engineer shall give his written instructions or decision within a period of one month from the receipt of the contractor's letter.

If the Superintending Engineer fails to give his instructions or decision in writing within the aforesaid period or if the contractor is dissatisfied with the instructions or decision of the Superintending Engineer, the contractor may, within 15 days of the receipt of Superintending Engineer's decision appeal to the Chief Engineer who shall afford an opportunity to the contractor to be heard, if the latter so desires, and to offer evidence in support of his appeal. The chief Engineer shall give his decision within 30 days of receipt of the Contractor's Appeal. If the contractor is dissatisfied with this decision, the contractor shall within a period of 30 days from receipt of the decision, give notice to the Engineer Member for appointment of Arbitrator, failing which, the said decision shall be final, binding and conclusive and not referable to adjudication by the Arbitrator.

ii) Except where the decision has become final, binding and conclusive in terms of Sub Para (i) above disputes or difference shall be referred for adjudication through arbitration by a Sole Arbitrator who shall be a technical person having the knowledge and experience of the trade, appointed by the Engineer Member, DDA. It will be no objection to any such appointment that the arbitrator so appointed is a DDA employee that he had to deal with the matter to which the contract relates and that in the course of his duties as DDA employee, he has expressed his views in all or any of the matter in dispute or difference. If the arbitrator so appointed is unable or unwilling to act or resigns his appointment or vacates his office due to any reason whatsoever, another sole arbitrator shall be appointed in the manner aforesaid. Such person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor.

It is a term of this contract that the party invoking arbitration shall give a list of disputes with amounts claimed in respect of each such dispute along with the notice for appointment of arbitrator and giving reference to the rejection by the Chief Engineer of the appeal.

It is also a term of this contract that no person other than a person appointed by the Engineer Member, DDA, as aforesaid, should act as arbitrator and, if, for any reason that is not possible; the matter shall not be referred to arbitration at all. It is also a term of this contract that if the contractor does not make any demand for appointment of arbitrator in respect of any claims in writing as aforesaid within 120 days of receiving the intimation from the Engineer-in-Charge that the final bill is ready for the payment,



the claim of the contractor shall be deemed to have been waived and absolutely barred and the DDA shall be discharged and released of all liabilities under the contract in respect of these claims.

The arbitration shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) or any statutory modifications or re-enactment thereof and the rules made there under and for the time being in force shall apply to the arbitration proceeding under this clause.

It is also a term of this contract that the arbitrator shall adjudicate on only such disputes as are referred to him by the appointing authority and give separate award against each dispute and claim referred to him and, in all cases, where the total amount of the claims by any party exceeds Rs.1, 00,000/-, the arbitrator shall give reasons for the award.

It is also a term of the contract that if any fees are payable to the arbitrator, these shall be paid equally by both the parties.

It is also a term of the contract that the arbitrator shall be deemed to have entered on the reference on the date he issues the notice to both the parties calling them to submit their statement of claims and counter statement of claims. The venue of the arbitration shall be such place as may be fixed by the arbitrator in his sole discretion. The fees, if any, of the arbitrator, shall, if required, to be paid before the award is made and published, be paid half and half by each of the parties. The cost of the reference and of the award (including the fees, if any, of the arbitrator) shall be in the discretion of the arbitrator who may direct to any by whom and in what manner, such costs or any part thereof shall be paid and fix or settle the amount of costs to be so paid.

(B) The Decision of the Superintending Engineer regarding the quantum of reduction as well as justification thereof in respect of rates for sub standard work which may be decided to be accepted will be final and could not be open to Arbitration.

4. Since disputes arose between the parties, the petitioner invoked arbitration. The Engineer Member, DDA appointed the Sole Arbitrator, who made and published the Arbitral Award dated 21.05.2018.
5. The said Award was set aside by District Judge (Commercial Court-06), South-East, Saket Courts, Delhi *vide* judgment/ order dated 07.12.2023, wherein it was held that the said Award is in contravention to the provisions of Section 12(5) Arbitration and Conciliation Act,



1996.

6. Hence, the present petition has been filed by the petitioner.
7. Mr. Vashishtha, learned counsel appears for the respondent and states that he has no objection to the present petition being allowed.
8. I am satisfied that there exists a valid arbitration clause and there are dispute between the parties which need to be adjudicated through the arbitral mechanism.
9. For the said reasons, the petition is allowed and the following directions are issued:-
 - i) Ms. Mehak Nakra (Adv) (Mob No. 9871144582) 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 1996 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.

10. Accordingly, the present petition is disposed of with pending applications.

JASMEET SINGH, J

OCTOBER 15, 2025 / (MS)