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

+ O.M.P. (T) (COMM.) 86/2025

ERA INFRA ENGINEERING LIMITED

.....Petitioner

Through: Mr. Anirban Bhattacharya, Ms. Suvangana Agarwal and Mr. Rajeev Chowdhary, Advocates.

versus

NTPC LTD

.....Respondent

Through: Mr. Chetan Sharma, ASG with Mr. Adarsh Tripathi, Mr. Amit Gupta, Mr. Vikram Singh Baid, Mr. Ajitesh Garg, Mr. Shubham Sharma and Mr. Naman, Advocates.

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+ O.M.P. (T) (COMM.) 87/2025

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CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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08.09.2025

I.A. 21878/2025 in O.M.P. (T) (COMM.) 86/2025

I.A. 21879/2025 in O.M.P. (T) (COMM.) 87/2025

1. Allowed, subject to all just exceptions.



2. Applications stand disposed of.

O.M.P. (T) (COMM.) 86/2025

O.M.P. (T) (COMM.) 87/2025

3. These petitions are *albeit* filed under Sections 14(1)(b) and 15(1)(a) of the Arbitration and Conciliation Act, 1996 ('1996 Act') for appointment of Substitute Arbitrator, learned counsel for the Petitioner at the outset, on instructions, states that these petitions be treated as petitions under Section 14(1)(b) of the 1996 Act.

4. O.M.P. (T) (COMM.) 86/2025 pertains to contract dated 03.03.2024 executed between the parties. Disputes having arisen, Sole Arbitrator was appointed on 16.11.2018 and vide order dated 02.09.2020 mandate of the Arbitrator was extended till 30.06.2021. Owing to an issue with respect to re-fee of the Arbitrator, Respondent filed a petition under Section 14 of the 1996 Act seeking termination of the mandate, which was allowed on 14.11.2022 in O.M.P. (T) (COMM.) 77/2022 and a substitute Arbitrator was appointed. Mandate of the Arbitrator was extended by this Court vide order dated 27.11.2024 till 27.05.2025. Thereafter, Respondent filed an application on 19.03.2025 for recalling three procedural orders passed earlier regarding the appointment and fixation of fee of the legal assistant by the Arbitrator upon which the substitute Arbitrator recused himself from the matter, leading to this petition.

5. O.M.P. (T) (COMM.) 87/2025 is in respect of disputes emanating from a contract executed on 03.03.2004. The Sole Arbitrator was appointed on 16.11.2018 who entered upon reference on 17.11.2018 whereafter pleadings were completed on 25.03.2019 and vide order dated 09.07.2020 the mandate was extended upto 30.06.2021. Owing to a dispute pertaining to



fee of the Arbitrator, Respondent filed a petition under Section 14 of the 1996 Act seeking termination of the mandate for unilaterally revising the fee, which was, dismissed by this Court on 01.12.2021. This order was challenged by the Respondent before the Supreme Court and vide order dated 21.10.2022 the Supreme Court terminated the mandate of the Arbitrator and set aside the order dated 01.12.2021 passed by this Court. The Supreme Court appointed a substitute Arbitrator who entered upon reference on 31.10.2022. Mandate of the Arbitrator was extended till 10.10.2023 vide order dated 10.04.2023.

6. Petitioner company under went CIRP and the arbitral proceedings were put in abeyance. The proceedings were resumed on 10.09.2024 after the resolution plan was approved and by order dated 21.02.2025 this Court extended the mandate of the Arbitrator by 6 months. On 01.05.2023 Arbitrator appointed a legal assistant and fixed his remuneration which led to filing of recall applications of three procedural orders and consequential recusal of the learned Arbitrator on 25.03.2025.

7. Learned counsel for the Petitioner submits that since the Arbitrator has recused from the proceedings in both the matters, a Substitute Arbitrator be appointed so that proceedings can be resumed.

8. Mr. Chetan Sharma, learned Additional Solicitor General appearing for Respondent, on instructions, fairly submits that Respondent has no objection to a Substitute Arbitrator being appointed, in light of the recusal of the earlier Arbitrator.

9. Accordingly with the consent of the parties, Ms. Justice Sangita Dhingra Sehgal, former Judge of this Court (Mobile No.9717592061) is appointed as a Substitute Arbitrator in both the matters. The proceedings



shall resume from the stage at which they were at the time of recusal by the earlier Arbitrator. Fee of the Arbitrator shall be fixed as per Fourth Schedule of 1996 Act, as agreed.

10. Learned Arbitrator shall give disclosure under Section 12 of the 1996 Act before entering upon reference.

11. It is made clear that this Court has not expressed any opinion on the merits of the case and all rights and contentions of the respective parties are left open.

12. Both petitions are disposed of in the aforesaid terms.

JYOTI SINGH, J

SEPTEMBER 8, 2025
Ch