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

+ ARB.P. 103/2025

Date of Decision: **03.04.2025**

IN THE MATTER OF:

PSN MEDICARE PRIVATE LIMITED

.....Petitioner

Through: Ms. Akanksha Kapoor and Mr.
Avinash Sharma, Advs.

versus

CHAIRMAN AND MANAGING DIRECTOR, CEMENT
CORPORATION OF INDIA AND OTHERSRespondents

Through: Mr. Nishant Awana, Ms. Rini Badoni
and Ms. Nitya Sharma, Advs.

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

JUDGEMENT

PURUSHAINDR KUMAR KAURAV, J. (ORAL)

1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, by the petitioner seeking appointment of an Arbitrator to adjudicate upon the disputes arising out of the Auction Sale Proceedings dated 12.05.2023.

2. Learned counsel for the petitioner submits that a notice under Section 21 of the Arbitration and Conciliation Act, 1996, invoking arbitration, was duly issued to the respondents on 13.12.2024. Since the respondents did not nominate an arbitrator, the petitioner has approached this Court through the present petition.



3. On issuance of notice, learned counsel Mr. Nishant Awana has entered appearance on behalf of the respondents and, upon instructions, submits that the respondents have no objection if this Court appoints a retired Judge of the High Court as Arbitrator, while reserving all rights and contentions of the respondents to be raised before the Arbitrator.

4. Heard learned counsel appearing on behalf of the parties.

5. A perusal of the petition indicates that the petitioner is a company incorporated under the Companies Act, and the respondent is the Cement Corporation of India, a Government of India enterprise incorporated under the Companies Act, 1956. Pursuant to the auction held on 12.05.2023, the petitioner submitted a bid for the sale and disposal of various equipment and properties, including plant and machinery, broad gauge railway tracks, railway engines, railway wagons, stores and spares, plant buildings and structures, administrative buildings, along with dismantling, excluding certain specified assets like the 132 KV substation of Karnataka Electricity Board, boundary walls, fencing, colony quarters, community centre, school, health centre, etc., at the Kurkunta Cement Factory of the Cement Corporation of India, which was under the control of respondent No.4. The said auction was conducted on a “one lot basis” described as an “as is where is, clean sweep, exclusion, and no-complaint basis.” Clause N of the Auction Sale Proceedings dated 12.05.2023 explicitly mandates arbitration as the mechanism for dispute resolution. The said clause “N” of the Auction Sale Proceedings, containing the arbitration agreement, is reproduced hereinbelow for convenience:-

“N. Dispute under this contract and arbitration.

1. In the event of any question / dispute, breach or difference arising in respect of the meaning and scope of terms & conditions herein or in



connection with any matter under this agreement (except for those matters which are to be decided as per provisions made in these terms & conditions). The same shall be referred as per the provisions laid down under Section 8 and section 11 of Arbitration and Conciliation Act, 1996. The Arbitrator shall give award with reasons in respect of each claim, dispute or difference referred to him in the event the value of the dispute(s) exceeds Rs.50,000/- The award of the Arbitrator shall be final and binding on the parties to this contract.

2. Subject to aforesaid the Arbitration & Conciliation Act, 1996 and the rules made there under and any statutory modifications thereof for the time being in force shall apply to the arbitration proceedings under this clause.

3. The work under the contract shall be continued uninterrupted during the pendency of the arbitration proceedings under this clause.

4. The venue of the arbitration shall be New Delhi or such other place as the arbitral tribunal at his discretion may determine.

5. Additional Clause in case of CPSE: In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs) / Port Trusts in terse and also between CPSEs and Government Departments / Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM No. 4(1)/2013-DPE(GM)/FTS- 1835 dated 22-05-2018.”

6. In view of the existence of the valid arbitration clause, coupled with the admitted position that disputes requiring arbitration have arisen between the parties, this Court finds it appropriate and expedient to appoint a sole Arbitrator to adjudicate upon the said disputes.

7. Accordingly, Justice Rajul Bhargava (Retd.) (Mobile No: +91-9839053626; Email: rajulbhargava18@gmail.com) is hereby appointed as the learned Sole Arbitrator.

8. The arbitration shall be conducted under the aegis of the Delhi International Arbitration Centre (DIAC), and shall be governed by its applicable rules and regulations. The learned Arbitrator shall be entitled to



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fees as per the Schedule of Fees maintained by DIAC. The Arbitrator shall submit the requisite disclosure under Section 12(2) of the Act within one week of entering upon reference.

9. Registry is directed to communicate this order to the learned Arbitrator expeditiously through all permissible means, including e-mail.

10. It is clarified that all rights and contentions of the parties, including claims and counterclaims, remain expressly kept open, to be decided by the learned Arbitrator on merits, in accordance with law. This Court has not expressed any view or opinion on the merits of the disputes herein.

11. The instant petition stands disposed of in the aforesaid terms.

PURUSHAINDR KUMAR KAURAV, J

APRIL 3, 2025/DPA/SP

Click here to check corrigendum, if any