

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.44 of 2021

Jwil Infra Limited (Formerly JITF Water Infrastructure Ltd.) having is Registered Office at 28, Shivaji Marg, New Delhi-110015 through it authorised Signatory.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Public Health and Engineering Department (PHED) having its Office at Vishwasariya Bhawan, Bailey Road, Patna-800001, Bihar.
2. The Engineer In-Chief Cum Special Secretary Cum Project Director, State Project Unit having its Office at Vishwasariya Bhawan, Bailey Road, Patna-800001, Bihar.
3. The Chief Engineer, Public Health Engineering Department, Bhagalpur Division, Patna.
4. The Executive Engineer, Public Health Engineering Department, Munger Division, Munger.
5. Superintendent Engineer, Public Health Engineering Department, Munger Division, Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anurag Saurav, Advocate
For the Respondent/s : Mr. S. Raza Ahmad, AAG-5
Mr. Alok Ranjan, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 24-11-2021

This application has been moved seeking appointment of an Arbitrator invoking the powers of this Court under Section 11(6) of the Arbitration and Conciliation Act, 1996.

On 15.09.2021 the Court had passed the following order:-

“Learned counsel for the petitioner invites



attention of this Court to Clause 25 (page 125), containing the arbitration clause in the written agreement dated 8th of January, 2011 entered into inter se the parties. He further states that the procedure and mechanism provided in the arbitration clause stands fully exhausted and only on failure on the part of the authorities to act in terms thereof, petitioner invoked the arbitration clause vide notice dated 24th of February, 2020 (Page-485).

Notice.

Shri Alok Ranjan, learned counsel enters appearance on behalf of the respondents.

Let reply be positively filed by the respondents within a period of two weeks from today. Rejoinder thereto, if any, be filed within a period of two weeks thereafter.

It stands clarified that no further opportunity shall be afforded for this purpose and the petition shall be heard on basis of materials available on record.

List this case on 27th of October, 2021.”

The dispute emanates out of a written agreement dated 8th of January, 2011 entered into between the parties to the *lis*. Clause (25) of the agreement contained herein, providing for the dispute redressal mechanism, undisputedly stands complied with. Also, communication dated 24th of February, 2020 (Page-485) [Annexure-7] is on record, whereby



the petitioner has asked the Chief Engineer, Public Health Engineering Department, Bhagalpur, Bihar to take a decision on the petitioner's claim setting out in terms of earlier communications referred to therein, failing which the petitioner deemed to have invoked the arbitration clause.

None responded to the said communication. Even though record reveals that certain meetings *inter se* the parties did take place for resolution of the dispute, but without any fruitful result. Subsequently, petitioner issued communication dated 24th of December, 2020 (Page No. 494) reiterating his request, invoking the arbitration clause. Even to this communication, there was no response.

There is no dispute about-(a) the legality, validity and binding effect of a written agreement dated 8th of January, 2011 entered into between the parties to the lis; (b) the existence of arbitration clause contained therein; (c) the existence of dispute(s) arising there from; (d) the dispute arisen out of the agreement being civil in nature; (e) no legal impediment in the adjudication of the dispute by the learned Arbitrator; f) Petitioner having exhausted the channel available for resolution of dispute; (g) the respondent having failed to appoint an Arbitrator pursuant to the invocation of the



arbitration clause by the petitioner.

As such, Hon'ble Mr. Justice Navin Sinha, Former Judge, Supreme Court of India, is appointed as learned Arbitrator to adjudicate all disputes arisen out of agreement dated 8th of January, 2011 entered into between the parties to the lis.

All pleas and issues raised, on merits, are left open to be considered and decided by the learned Arbitrator.

Learned Arbitrator shall be entitled to fee as per the schedule of the Act.

Since the dispute arises out of an agreement of the year 2011, the hearing be expedited.

Parties undertake to fully cooperate and not take any unnecessary adjournment.

The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode.

It is expected of the learned Arbitrator to decide the issues expeditiously.

Joint Registrar (List) is directed to communicate the order to the learned Arbitrator.



Learned counsel for the parties undertake to communicate the order to the learned Arbitrator. In fact, they volunteered to appear before him, through physical/digital mode on 15th of December, 2021 and apprise him of the passing of the order.

Parties shall file their statement of claims before the learned Arbitrator on such date of hearing which he may fix, as per mutual convenience.

The Request Petition stands disposed of in the above terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

P.K.P/Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	10.12.2021
Transmission Date	

