

M/S. Phular Construction Company ... vs The State Of Bihar

Citation : 2023 Latest Caselaw 568 Patna

Date : 1 February, 2023

Patna High Court

M/S. Phular Construction Company ... vs The State Of Bihar on 1 February, 2023

IN THE HIGH COURT OF JUDICATURE AT PATNA REQUEST CASE No.119 of 2022
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M/s. Phular Construction Company Pvt. Ltd. having its Registered Office At Phular, P.O. Mansurpur, District Vaishali through its Managing Director Sri Umesh Prasad Singh, (Male), aged about 61 years, Son of Late Nand Kishor Singh Resident of 112, Khabra @ Kiratpur Gurdas, P.O. Khabra, P.S. Muzaffarpur Sadar, District Muzaffarpur.

... .. Petitioner/s Versus

1. The State of Bihar The Department of Water Resources, Government of Bihar through its Secretary.
2. The Secretary, Department of Water Resources, Government of Bihar, Patna.
3. The Chief Engineer, Flood Control and Drainage, Water Resources Department, Gopalganj, District- Gopalganj, Bihar.
4. The Superintending Engineer, Flood Control Circle, Padrauna, District Kushinagar, (Uttar Pradesh) 274304.
5. The Executive Engineer, Flood Control Division- 1, Padrauna, District Kushinagar, (Uttar Pradesh) 274304.

... .. Respondent/s
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Appearance :

For the Petitioner/s : Mr.Alok Kumar Agrawal, Advocate Mr. Lokesh Kumar, Advocate Mr. Anand Kumar, Advocate Mr. Rahul Kumar, Advocate For the Respondent/s : Mr.Anjani Kumar, AAG 4

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CORAM: HONOURABLE THE CHIEF JUSTICE ORAL JUDGMENT Date : 01-02-2023 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 (hereinafter referred to as the 'Act').

Petitioner and the respondents entered into an agreement dated 14.02.2019 (Annexure-1, Page 14) containing Patna High Court REQ. CASE No.119 of 2022 dt.01-02-2023 2/4 an arbitration Clause- 25 (Page 157) for settlement of disputes, which the petitioner invoked, vide communications dated 25.05.2022 (Annexure 2, Page 256) to the Superintending Engineer, Flood Control Circle, Padrauna; dated 24.06.2022 (Annexure-3 Page 296) to the Chief Engineer, Flood Control and Drainage, Water Resources Department, Gopalganj, Bihar and dated 12.09.2022 (Annexure-4, Page 316) to the Engineer- in-Chief, Flood Control and Drainage, Water Resources Department, Sichai Bhawan, Patna(Bihar) for appointment of an Arbitrator to adjudicate the dispute between the parties.

Today, there is no dispute about-(a) the legality, validity and binding effect of the agreement dated 14.02.2019;

(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/ Letter of Acceptance 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 respondents having failed to appoint an Arbitrator pursuant to the invocation of the arbitration clause by the petitioner.

As such, Hon'ble Mr. Justice Deepak Gupta, Former Judge, Supreme Court of India, is appointed as learned Patna High Court REQ. CASE No.119 of 2022 dt.01-02-2023 3/4 Arbitrator to adjudicate all disputes arising out of the agreement dated 14.02.2019 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/ Letter of Acceptance of the year 2019, it is expected of the learned Arbitrator to decide the issues expeditiously.

Parties are directed to fully cooperate and not take any unnecessary adjournment.

The proceedings shall be conducted through digital mode, unless the parties otherwise

mutually agree to meet in person i.e. physical mode.

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

Learned counsel for the parties to communicate the order to the learned Arbitrator. Also, parties are directed to appear before him, through physical/digital mode on 20.02.2023 and apprise him of passing of this order.

Parties shall file their statement of claims before the Patna High Court REQ. CASE No.119 of 2022 dt.01-02-2023 4/4 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) Sujit/Ranjan AFR/NAFR CAV DATE Uploading Date Transmission Date