

# M/S Raghav Engineers vs Delhi Tourism And Transportation ... on 22 February, 2022

**Author: Vibhu Bakhru**

**Bench: Vibhu Bakhru**

\$~1 (2021)

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ ARB.P. 110/2022

M/S RAGHAV ENGINEERS

..... Petitioners

Through: Mr Siddharth Mullick, Advocate.

versus

DELHI TOURISM AND TRANSPORTATION

DEVELOPEMENT CORPORATION LIMITED ..... Respondent

Through: Mr Abhimanyu Garg and Mrs Preet

Makkar, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% 22.02.2022

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the A&C Act') praying that an Arbitrator be appointed to adjudicate the disputes between the parties.

2. The respondent had invited Notice Inviting Tender (NIT) for the work relating to lift structure and renovation of rooms at Head Office, Defence Colony, New Delhi. The petitioner had responded to the aforesaid NIT and was, subsequently, declared a successful bidder. On 31.03.2015, the respondent awarded the contract for the aforementioned works to the petitioner.

3. Thereafter, on 09.04.2015, the petitioner submitted a Letter of Acceptance as well as the Performance Bank Guarantee.

4. Certain disputes have arisen between the parties in connection with the aforementioned contract.

5. The petitioner states that on 10.02.2020, it made a representation for release of certain amounts, which according to the petitioner, were due and payable. Thereafter, the petitioner sent several communications addressed to certain officers of the respondent as well as the Chief Minister of Delhi. However, the said communications did not elicit any satisfactory response.

6. In terms of Clause 25 of the General Conditions of the Contract (GCC) as applicable to the

contract in question, the petitioner was required to raise a claim and invite a decision from the Executive Engineer of the respondent; however, no response was received.

7. The respondent states that in terms of the Arbitration Clause, the petitioner was required to make a claim before the Superintendent Engineer, if it was not satisfied with the decision of the Executive Engineer or the payments disbursed to it. The Superintendent Engineer was required to give the decision within a period of one month from the receipt of the claim. If the petitioner was dissatisfied with the said decision, it could escalate the matter to the Chief Engineer. The Chief Engineer was required to make its decisions within thirty days. If the petitioner was dissatisfied with the decision of the Chief Engineer, it could appeal to the Dispute Resolution Committee. If the Dispute Resolution Committee failed to give a decision within a period of ninety days or the petitioner was dissatisfied with the said decision, it could approach the Chief Engineer for appointment of an Arbitrator in the prescribed form.

8. The learned counsel appearing for the respondent states that since, the petitioner had approached the Chief Engineer directly without approaching the Superintendent Engineer, the Chief Engineer did not take the necessary decision.

9. He submits that if the petitioner approaches the Chief Engineer once again setting out the claims, then the concerned Chief Engineer shall render a decision within a period of thirty days from the date of receipt of the claims. If the petitioner is dissatisfied with the decision, the respondent shall constitute a Dispute Redressal Committee (DRC) which shall give its decision within the prescribed period of ninety days.

10. If the petitioner is dissatisfied with the decision of the DRC or if the decision is not communicated within a period of ninety days, the petitioner would be at liberty to approach this Court for appointment of an Arbitrator.

11. The respondent is bound down to the aforesaid statement.

12. The petition is disposed of by permitting the petitioner to once again approach the concerned Chief Engineer for setting out its claims.

13. The petitioner is at liberty to apply afresh if the disputes are not settled at the level of the Chief Engineer and the DRC.

VIBHU BAKHRU, J FEBRUARY 22, 2022 RK Click here to check corrigendum, if any