

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	13.10.2023		<p>ARBAP No. 63 of 2023 <u>Hon'ble Vipin Sanghi, C.J.</u></p> <ol style="list-style-type: none"> 1. Mr. Vikas Bahuguna, learned counsel for the applicant. 2. Mr. Raunak Pant, learned counsel holding brief of Mr. Naresh Pant, learned counsel for the respondents. 3. The applicant has preferred this application, under Section 11(6) of the Arbitration and Conciliation Act, 1996, to seek appointment of an Arbitrator to resolve the disputes, which have arisen between the parties under their agreement dated 17.12.2018, titled as "Engineering, Procurement and Construction Agreement". 4. The case of the applicant is that, in terms of Clause 26, the applicant first invoked Conciliation, vide notice dated 15.06.2023, by calling upon the Authority's Engineer to resolve the disputes. However, there was no resolution of disputes through Conciliation. The applicant then invoked the arbitration agreement on 26.08.2023. Despite the said invocation, there is no resolution of disputes, and no Arbitrator has been mutually appointed by the parties. Consequently, the present Arbitration Application has been preferred. 5. Counsel appears on advance notice on behalf of the respondents, and submits that the applicant has not approached the Chairman of the respondents for Conciliation after the matter was not resolved in conciliation through the Authority's Engineer, in terms

of Clause 26.2 of the Agreement.

6. *Prima facie*, this appears to be a hyper-technical argument on behalf of the respondents. Nothing prevented the Chairman of the Board of Directors of the respondents to conciliate and resolve the disputes, since the applicant had already invoked the same by sending notice dated 15.06.2023. Even thereafter, the applicant invoked the arbitration agreement on 26.08.2023, i.e. nearly 1½ months ago. The Chairman even then did not conciliate in the matter. In any event, to obviate the aforesaid hyper-technical objection, I direct the Chairman to consider the present Arbitration Application as the applicant's representation, and to conciliate the dispute.

7. The respondents are granted four weeks' time to file reply to this application.

8. In case the conciliation does not result in a settlement, on the next date, this Court shall proceed to dispose of this Arbitration Application.

9. List on 24.11.2023.

(Vipin Sanghi, C.J.)
13.10.2023

Rahul