

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Arbitration Case No. 168 of 2014

Date of Decision: 24.04.2015

Sidharth Hospital

..Petitioner

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE.

Present : Mr. Gopal Sharma, Advocate and
Mr. Tarurag Gaur, Advocate for the petitioner.

Mr. G.S.Wasu, Addl. Advocate General, Haryana
for respondent Nos.1 and 2.

Mr. Nitin Gupta, Advocate, for respondent No.3.

S.J.VAZIFDAR A.C.J. (Oral)

This is an application filed under section 11(6) of the Arbitration & Conciliation Act, 1996 for appointment of an Arbitrator.

2. An agreement was entered into between the Department of EIF Health Care, Government of Haryana and National Insurance Company-respondent No.3. It is common ground that the petitioner is bound by the terms and conditions of the agreement. Clause 21 of the agreement reads as under:-

“21. DISPUTES RESOLUTION AND GRIEVANCE REDRESSAL

21.1 If any dispute arises between the parties during the subsistence of the policy period or thereafter, in connection with the validity, interpretation, implementation or alleged breach of any provision of the scheme, it will be settled on the following way:-

a. Dispute between Beneficiary and Health Care provider.

The parties shall refer such dispute to the redressal committee constituted at the District level under the Chairmanship of concerned District Magistrate and

authorized representative of the insurance company as members. This committee will settle the dispute. If either of the parties is not satisfied with the decision, they can go to the State Level Committee which will be Chaired by the Principal Secretary, Department of Health with representative of the Insurance Company as a member.

b. Dispute between Health Care Provider and the Insurance Company.

The parties shall refer such dispute to the redressal committee constituted at the District level under the chairmanship of concerned District Magistrate, authorized representative of the insurance company and a representative of the health care providers as members. The committee will settle the dispute. If either of the parties is not satisfied with the decision, they can go to the State level committee which will be chaired by the Principal Secretary, Department of Health with representative of the Insurance Company as a member. Insurance Company and the State Nodal Agency will follow the “Advisory” issued by MoLE, Government of India, regarding the de-empanelment of the hospitals.

Note: If State redressal committee is unable to resolve the dispute, mentioned in 20a and 20b, within 60 days of it being referred to them, then it will be settled as per procedure given in para 20c below.”.

3. The petitioner had approached the Permanent Lok Adalat, Public Utility Services, Karnal, Camp Court at Kurukshetra, for the resolution of the disputes and differences that had arisen between the petitioner and respondent No.3. The Permanent Lok Adalat in its order dated 07.05.2014 recorded that respondent No.3 sought dismissal of the application and for issuance of directions for referring the dispute to an Arbitrator. In view thereof, it is not open to respondent No.3 to now contend that the procedure under the arbitration clause was not followed. It

must be presumed that all the stages preceding the appointment of an Arbitrator stood exhausted by the petitioner.

4. Respondent No.3 does not accept this order. However, respondent No.3 states that in the event of an Arbitrator being appointed, a sole Arbitrator be appointed and that Chandigarh should be the venue of arbitration. This was in order to avoid inconvenience and to reduce the cost of arbitration. The petitioner agrees to the aforesaid suggestion.

4. The petition is accordingly disposed of by appointing Mr. Justice R.S.Madan, former Judge of this Court, as the sole Arbitrator to adjudicate upon the disputes and differences between the parties. The venue of arbitration shall be at Chandigarh.

24.04.2015
'ravinder'

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE