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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO 321/2016 & C.M. 25238-39/2016**

THE KARIYAVULA RAJU EDUCATIONAL SOCIETY

..... Appellant

Through: Mr. C. Mohan Rao, Advocate for
Mr. Lokesh Kumar Sharma,
Advocate

Versus

**CAREER LAUNCHER EDUCATIONAL INFRASTRUCTURE
& SERVICES LIMITED**

..... Respondent

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

19.07.2016

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Appellant through its Secretary- *Mr. P. Brahmananda Rao* had participated in arbitration proceedings and the learned arbitrator had framed an issue regarding *Mr. P. Brahmananda Rao* being competent and authorized person to file the claim petition on behalf of the appellant and after a detailed discussion, learned arbitrator found that the claim petition was not filed through properly authorized person in terms of Rules and Regulations of the Society. However, the learned arbitrator finding it to be a technical lapse, proceeded not to reject the claim petition of the appellant for refund of ₹10,00,000/-.

In the impugned order, trial court has found that incompetence of *Mr. P. Brahmananda Rao* to file the claim petition cannot be brushed aside as a technical ground and so, the claim petition of appellant stands dismissed.

In this appeal, challenge to the impugned order by learned counsel for appellant is on the ground that there was no reason whatsoever to doubt the letter of 21st July, 2009 vide which *Mr. P. Brahmananda Rao* was appointed as Secretary of the appellant- Society. The finding on this aspect by the learned arbitrator is as under:-

“The ld. counsel for the Claimant gave explanation that these letters were sent through FAX, but he could not explain as to why along with the claim petition some another authority was filed and as to why it was not mentioned in the claim petition that the said Mr. P. Brahmananda Rao is the Secretary and Correspondent of the society”

At the hearing, it was put to learned counsel for appellant as to how the aforesaid finding by the learned arbitrator was assailed before the trial court or in this appeal. It was candidly submitted by learned counsel for appellant that no ground has been taken to assail the aforesaid finding for the reason that the issue of competence of appellant’s Secretary was ultimately decided by the learned arbitrator in favour of the appellant. Nothing else was urged on behalf of the appellant.

To say the least, this is not a plausible explanation for filing the

claim petition on the basis of authority of another person. Therefore, authenticity of the letter dated 21st July, 2009 vide which *Mr. P. Brahmananda Rao* was appointed as Secretary of the appellant-Society has been rightly doubted by the court below.

Finding no substance in the appeal, it is dismissed along with the pending applications.

(SUNIL GAUR)
JUDGE

JULY 19, 2016

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