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

+ **ARB.P. 536/2016 & IA No. 10537/2016**

KOTHARI NATIONAL SCHOOL

..... Petitioner

Through : Mr Rajat Arora, Advocate.

versus

EDUCOMP SOLUTIONS LTD & ANR.

..... Respondents

Through : Mr Prashant Prakash and Mr Ravi
Kumar, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **03.10.2016**

1. This is a petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act') whereby the petitioner is seeking appointment of an Arbitrator(s) for adjudication of its disputes.
2. It is not disputed that the petitioner had entered into an agreement dated 29.01.2013, with the respondents "*for the implementation of smart class program comprising of sale of hardware and making available the repository of digital content.*" The said Agreement contained an Arbitration clause which reads as under:-

"9.1 ARBITRATION

If any dispute or difference of any kind whatsoever arise between the parties in connection with or arising out of the Agreement or any part thereof, such dispute or difference shall be referred to an acceptable sole Arbitrator under the provisions of the Indian Arbitration and Conciliation Act, 1996, or any enactment or modification there under. The sole Arbitrator shall be appointed by Party A. The venue for arbitration shall be at New Delhi and the language shall be English. The courts in New Delhi shall have jurisdiction to entertain all disputes between the parties."

3. Admittedly, certain disputes in relation to the said Agreement have arisen between the parties which are required to be referred to Arbitration. The respondents had already appointed an Arbitrator for adjudication of the said disputes. However, the petitioner has pleaded that such appointment was contrary to the terms of the agreement as, first of all, the Arbitrator appointed by the respondents was not acceptable to it; and secondly, they had no prior information of such appointments.

4. The learned counsel appearing for the respondents submit that the respondents have no objection if an independent Arbitrator is appointed for adjudication of the disputes between them.

5. Accordingly, the petition is allowed and with the consent of parties Mr Raghvendra Kishore Singh, Advocate (Mobile No.9717572557,

Enrolment No.D1442/2010) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties including their claim and counter-claim.

6. The fees of the Arbitrator shall be in terms of Schedule IV to the Arbitration and Conciliation Act, 1996.

7. Copy of the order be given *dasti* to the counsel for the parties under the signature of Court Master. A copy of this order be also sent to the Arbitrator.

8. The petition is disposed of.

OCTOBER 03, 2016
pkv

VIBHU BAKHRU, J