

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO.63 OF 2017**

Coresonant Systems Pvt. Ltd.Petitioners

Vs.

College of Engineering, PuneRespondents

Mr. Rakesh Reddy for petitioners.

Ms. Kajal Malkan i/b. Ms. Mayura Maru for respondents.

CORAM : K.R.SHRIRAM, J.

DATE : 10th NOVEMBER, 2017

PC.:

1 Ms. Malkan states that they will file Vakalatnama on behalf of respondents within one week from today.

2 Mr. Reddy, counsel for petitioners states that petition was served on respondents on 9th September, 2017 and again on 3rd October, 2017 but respondents have chosen not to file any reply and it is for the first time that some advocate is appearing for respondents.

3 This is a case where both parties had appointed Arbitrator. Petitioners nominated one Mr. Sridev Nair as their Arbitrator and respondents nominated one Mr. Sandeep Pawar as their Arbitrator. Mr. Reddy states that first of all, both the Arbitrators could not agree on who will be the third and the presiding Arbitrator and secondly, both the Arbitrators will effectively be disqualified due to provisions of the Fifth Schedule to the Arbitration and Conciliation Act, 1996. Mr. Reddy states

that petitioners' Arbitrator will fall under Serial No.5, i.e., the arbitrator is a manager, director or part of the management, or has a similar controlling influence, in an affiliate of one of the parties if the affiliate is directly involved in the matters in dispute in the arbitration" and respondents' Arbitrator will fall under Serial No.2, i.e., the arbitrator currently represents or advises one of the parties or an affiliate of one of the parties." Mr. Reddy, therefore, suggest that Court may appoint anybody as Sole Arbitrator.

4 Accordingly, Mr. Justice A.R. Joshi, a former Judge of this Court, residing at i) Plot No.103, "CHAITANYA" Bungalow, Indrayani Colony, Chakan Road, Talegaon Dabhade, District Pune - 410 506 and ii) Flat No.1201, 12th Floor, B-Wind, Priyadarshani Society, Bhawani Complex, Bhawani Shankar Road, Dadar (West), Mumbai (Mobile No.9967310555, Email ID-arjoshi53@gmail.com) is appointed as Sole Arbitrator to arbitrate on all disputes and differences, including counter claim, if any, between the parties arising out of or in connection with or relating to Tender Notice dated 26th November, 2013 alongwith purchase orders dated 22nd April, 2014 and 29th December, 2014.

5 The fees to be fixed by the Arbitrator, administrative expenses, typing charges and venue charges to be shared equally between the parties, i.e., 50% by petitioners and 50% by respondents and the same shall be subject to cost in the arbitral proceedings.

6 The Arbitrator to communicate to the Advocate for petitioners with copy to respondents the disclosures as required under Section 11 (8) read with Section 12 (1) of the Arbitration and Conciliation Act, 1996 within four weeks of receiving a copy of this order from petitioners' Advocates or respondents' Advocates.

7 Liberty to apply.

8 Petition accordingly stands disposed.

(K.R. SHRIRAM, J.)