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

+ O.M.P.(T) 3/2017

PRAMILA YADAV AND ANR. Petitioners

Through: Mr Prafulla Kumar Bhera and Ms
Asmita Chaudhary, Advocates.

versus

VINOD SHARMA AND ANR. Respondents

Through: Mr Sanjeev Sahay and Mr Aayush
Chandra, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **20.02.2017**

IA No. 2185/2017

Exemption is allowed, subject to all just exceptions.

The application stands disposed of.

O.M.P.(T) 3/2017 and IA No. 2184/2017

1. This is the petition filed under Section 14 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, seeking that the mandate of the arbitrator may be terminated.
2. The principal ground urged in support of the aforesaid relief is that the arbitrator is biased and there are serious doubts as to his impartiality and independence.
3. The petitioner has also sought declaration from the arbitrator as required under Section 12 of the Act. The learned counsel for the petitioner states that the petitioner had also filed an application under Section 12 of the Act challenging the appointment of the arbitrator, which was dismissed by

the arbitrator on 26.12.2016.

4. In view of the decision of the Division Bench of this Court in **Progressive Career Academy Pvt. Ltd. v. FIIT JEE Ltd.**: 180 (2011) DLT 714, the arbitrator's mandate cannot be terminated on account of a challenge to his impartiality under Section 12(1) of the Act. The provisions of Section 13(4) and 13(5) are clear; in the event the arbitral tribunal rejects the challenge under Section 12 of the Act, the Arbitral Tribunal is required to proceed and make an award. The party challenging the arbitrator is also at liberty to make an application for setting aside the award under Section 34 of the Act. It has been held that in view of the specific provisions of Section 13 of the Act, recourse to Section 14 of the Act for termination of the Arbitrator's mandate would not be available.

5. In view of the above referred decision of the Division Bench of this Court in ***Progressive Career Academy Pvt. Ltd.*** (*supra*), the present petition cannot be entertained and is, accordingly, dismissed. The pending application also stands disposed of.

6. This would not preclude the petitioner from raising issue as to the impartiality and independence of the arbitral tribunal in assailing the arbitral award.

VIBHU BAKHRU, J

FEBRUARY 20, 2017
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