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

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Judgment delivered on: 29.08.2017

+ **ARB.P. 396/2017**

GREENFIELD PUBLIC SCHOOL

..... Petitioner

versus

EDU SMART SERVICES PRIVATE
LIMITED & ANOTHER

..... Respondents

Advocates who appeared in this case:

For the Petitioner

: Mr Siddharth Khattar

For the Respondents

: Mr R.Narayanan, Mr Prashant Prakash and
Mr Ravee J.Kumar, Advocates.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

29.08.2017

SANJEEV SACHDEVA, J. (ORAL)

ARB.P.396/2017 & IA No.6948/2017(stay)

1. The petitioner, by this petition under Section 11 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as 'the Act'), seeks appointment of an independent Sole Arbitrator.

2. A Tripartite Agreement was entered into between the petitioner on the one side and the respondents, on the other, for installation and implementation of "Smart Class" at the premises of the petitioner for a period of five years.

3. The Arbitration Clause agreed to between the parties 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 this Agreement or any part thereof, such dispute or difference shall be referred to an acceptable Sole Arbitrator under the provisions of the Indian Arbitration & Conciliation Act, 1996, or any enactment or modification thereunder. 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”

4. During the execution of the Agreement, certain disputes arose between the parties leading to the respondents invoking the Arbitration.

5. The respondents, without taking recourse to Section 11 of the Act, appointed a Sole Arbitrator. The Sole Arbitrator terminated his own mandate by order dated 04.05.2016.

6. Thereafter, respondents once again appointed another Sole Arbitrator. Appointment of the Sole Arbitrator was impugned by the petitioner under Section 16 of the Act. The application under Section 16 was rejected by the Sole Arbitrator.

7. Thereafter, petitioner sought disclosures from the Sole

Arbitrator in terms of Section 12 of the Act but no such disclosures have been made.

8. Learned counsel appearing for the respondent submits that without prejudice to the rights and contentions and without admitting any of the allegations made by the petitioner, respondent is agreeable to appointment of an independent Sole Arbitrator in place of the Arbitrator already appointed.

9. Learned counsel for the parties submit that the matter be referred to the Delhi International Arbitration Centre for appointment of a Sole Arbitrator from their panel so that the arbitration proceedings are conducted under the aegis of Delhi International Arbitration Centre.

10. Accordingly, the petition is disposed of with a direction to the Delhi International Arbitration Centre, Delhi High Court, New Delhi to appoint an Arbitrator from their panel of Arbitrators.

11. The parties shall appear before the Coordinator, Delhi International Arbitration Centre, New Delhi on 05.09.2017 at 11 AM.

12. The petition is accordingly disposed of.

13. Order *Dasti* under signatures of the Court Master.

AUGUST 29, 2017/“§n’

SANJEEV SACHDEVA, J