

\$~21

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

+ ARB.P. 669/2017

IOT SPORTING ASPIRATIONS PVT. LTD. Petitioner
Through Mr.Jatin Mongia, Adv.

versus

HOTFUT HYDERABAD Respondent
Through None.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
% **05.12.2017**

The present petition under Section 11 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the 'Act') has been filed by the petitioner seeking appointment of a Sole Arbitrator for adjudication of the disputes that have arisen between the parties under the Memorandum of Understanding dated 15.09.2015. The said Memorandum of Understanding contained an arbitration agreement in form of Clause 4.7, which is reproduced herein below:

"This Agreement shall be governed by and construed in accordance with the laws of India, and in case of any dispute between the Parties, the same shall be submitted before a sole arbitrator mutually appointed by the parties. The arbitration proceedings shall be held at New Delhi and be conducted in English."

The petitioner had sent a notice dated 16.08.2017 invoking the arbitration clause. It also nominated Mr.Amit Sharma, Advocate as a Sole

Arbitrator. This can only mean that it was proposing Mr.Amit Sharma as a Sole Arbitrator.

The respondent vide its letter dated 02.09.2017, did not deny the existence of arbitration agreement, however, had objection of Mr.Amit Sharma being appointed as a Sole Arbitrator. It also did not suggest the name of any person who could be appointed as a Sole Arbitrator.

As the parties could not agree on a common mutually acceptable arbitrator, present petition under Section 11 of the Act was filed before this Court.

Notice of this petition was issued to the respondent on 24.10.2017. Notice has been duly served on the respondent and affidavit of service in this regard has been filed by the petitioner. None appears for the respondent. In that view of the matter, this Court finds no impediment for appointment of Sole Arbitrator for adjudication of the disputes between the parties.

At the request of learned counsel for the petitioner, the parties are referred to Delhi International Arbitration Centre (DIAC) who shall appoint a Sole Arbitrator, preferably an Advocate (keeping in mind the amount claimed by the petitioner).

Learned counsel for the petitioner further submits that the respondent is merely a branch of Hotfut Sports Infrastructure Pvt. Ltd and DIAC has already been requested to appoint a Sole Arbitrator for adjudication of the disputes between the petitioner and the said Company by a separate order passed today in Arbitration Petition No.494/2017; the issues involved in the two cases would be identical in nature. It is therefore, requested by the learned counsel for the petitioner that same Arbitrator be appointed for

adjudication of the disputes in both the matters.

Keeping in view the submission made by the learned counsel for the petitioner, DIAC is directed to appoint the same Arbitrator for adjudication of the disputes arising out of the present petition and Arbitration Petition No.494/2017. The Arbitrator would be free to take any decision of consolidation of the reference / arbitration proceedings or otherwise.

The arbitration and the fee shall be governed by the rules of the DIAC. The petitioner will communicate this order to the DIAC.

With the above directions, the petition is disposed of.

NAVIN CHAWLA, J

DECEMBER 05, 2017/vp