

HIGH COURT OF CHHATTISGARH, BILASPUR

Arbitration Application No.9 of 2017

Indian Agro and Food Industries Limited, a limited company incorporated under provision of Companies Act, 1956, having its registered office at Village Indamara, Post Pendri, District Rajnandgaon (C.G.) through its Director Anjum Alvi, S/o Dr. Iqbal Alvi, aged 53 years, R/o Flat No.203, IB Group Quarters, Behind Dipika Vidhya Mandir, R.K. Nagar, Rajnandgaon (C.G.)

---- Applicant

Versus

Gauthami Hatcheries Private Limited, a private limited company incorporated under Companies Act, 1956 having its registered office at Flat No.102, 1st Floor, 5-9-22/40, JVR Amrut Enclave, Adarsh Nagar, Hyderabad – 500 063, Telangana, through its Managing Director D. Srinath Reddy, Flat No.102, 1st Floor, 5-9-22/40, JVR Amrut Enclave, Adarsh Nagar, Hyderabad – 500 063, Telangana

---- Non-applicant

For Applicant:	Mr. Malay Shrivastava, Advocate.
For Non-applicant:	None present, though served.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

02/04/2018

1. This is an application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short, 'the Act of 1996') for appointment of arbitrator.
2. Learned counsel for the applicant would submit that loan agreement was entered into between the applicant and the non-applicant on 23-12-2014, but pursuant to that, the non-applicant has not repaid the amount as per the schedule fixed in the loan agreement and thereby the applicant has invoked clause 10 of the loan agreement and prayed for appointment of arbitrator which has not been appointed despite receipt of notice and reply on false ground has been sent.

3. None has appeared on behalf of the non-applicant though served.
4. I have heard learned counsel for the applicant.
5. Clause 10 of the loan agreement provides for dispute resolution and arbitrator has to be appointed jointly by the borrower and the lender. Clauses 10.1 and 10.4 of the loan agreement read as follows: -

“10. Dispute Resolution

10.1 The Parties agree that in the event of any disputes, differences, controversies and questions directly or indirectly arising at any time under, out of, in connection with or in relation to this Loan Agreement (or the subject matter of this Loan Agreement) (**Dispute**), the Parties shall submit the same to a sole arbitrator to be appointed jointly by the Borrower and the Lender.

10.4 The arbitration shall be governed by the laws of India in accordance with the Arbitration and Conciliation Act, 1996.”

6. The dispute is arbitral dispute and arbitrator has to be appointed jointly by the borrower and the lender in accordance with the Act of 1996. Since despite notice, the non-applicant has not taken steps to appoint arbitrator, therefore, the applicant has approached this Court, as there is arbitration clause in the loan agreement and arbitral dispute has arisen between the parties.
7. In view of the above, in exercise of power under Section 11(6) of the Act of 1996, I hereby appoint Hon'ble Mr. Justice V.K. Shrivastava, former Judge of this High Court to arbitrate the dispute. Registry is directed to communicate this order to Hon'ble Mr. Justice V.K. Shrivastava who shall enter into reference after complying with the provisions contained in Section 12 (2) of the Act of 1996.

8. The arbitration application is allowed to the extent indicated herein-above. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma