

COMMERCIAL ARBITRATION PETITION No. 1205 of 2018

Mr. Ishwar Nankani a/with Ms. Aanchal Aggarwal I/by Nankani & Associates for the petitioner.
Mr. Yakshay Chheda a/with Ms. Warisha Parkar I/by Parinam Law Associates for the respondent.

P.C. :

2 This order was passed on the claimant's application dated 5th March, 2018 under Section 17 of the Arbitration and Conciliation Act, 1996. By the impugned order, the Arbitral Tribunal, after giving detailed reasoning has ordered disclosure of certain documents that are in the possession of the petitioner herein. Whilst granting this disclosure, the Arbitral Tribunal has also given detailed reasons as to why the disclosure

of the documents are necessary.

3 It is the apprehension of the petitioner that these reasons and findings appear to be of a conclusive nature which will influence the final Award that would be passed. It was the further submission of the petitioner that such findings could not be given without fully hearing the parties and evidence being led before the Arbitral Tribunal. It is carrying this apprehension that the present petition has been filed, challenging the order passed by the Arbitral Tribunal.

4 On going through the impugned order, I do not think that the apprehension of the petitioner is well founded. The Arbitral Tribunal has only come to prima facie findings for ordering disclosure of the documents mentioned in the impugned order.

5 In any event, I clarify that the findings given by the Arbitral Tribunal in the impugned order will be treated as only prima facie in nature and shall not influence the Arbitral Tribunal, when it hears both the parties finally in the arbitration proceedings. Once this clarification is given, then the apprehension of the petitioner does not survive and consequently neither does challenge to the impugned order. In these circumstances, the arbitration petition is dismissed but subject to the clarification given above. However, there shall be no order as to costs.

6 It is also made clear that considering the documents, of which

disclosure has been ordered, are confidential in nature, the respondent herein (the claimant in arbitration proceedings) is directed not to disclose or use these documents in any other proceedings other than the present dispute. The learned Counsel appearing on behalf of the petitioner has fairly stated before me that the documents of which disclosure is ordered shall be supplied by the petitioner to the respondent's Advocate within a period of four weeks from today. The said statement is accepted.

(B.P. COLABAWALLA, J.)