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

+ ARB.P. 216/2018

MAHARISHI AYURVEDA PRODUCTS
PVT. LTD

..... Petitioner

Through: Mr Ravi Ranjan, Advocate.
versus

NPB SOFTECH PVT. LTD & ANR.

..... Respondents

Through: Mr Swapnil Gupta and Mr Swaralipi
Deb Ray, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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03.05.2018

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying that an arbitrator be appointed to adjudicate the disputes that have arisen between the parties in respect of the Memorandum of Understanding dated 26.06.2013 (hereafter 'the Agreement'). The Agreement includes an arbitration clause, which is set out below:-

“5. It is agreed that both the parties shall abide by the terms and conditions of the present MOU. In case of any dispute the parties will refer the case to the arbitration. The arbitrator shall be appointed with the mutual consent of the parties, which will have jurisdiction at New Delhi.”

2. Admittedly, the petitioner had invoked the said arbitration clause by a notice dated 11.01.2018 and also proposed the name of an arbitrator. The respondent responded to the said notice by a letter dated 16.01.2018, *inter alia*, denying to concur on appointment of the proposed arbitrator. This has

led the petitioner to file the present petition.

3. The learned counsel appearing for the respondent submits that the disputes sought to be raised by the petitioner are in relation to a MoU dated 10.08.2011, which does not include an arbitration clause. He has also drawn the attention of this Court to the legal notice dated 15.12.2017 sent at the instance of the petitioner, whereby the petitioner had, *inter alia*, alleged that the respondent had breached the MoU dated 10.08.2011.

4. As is apparent from the above that in so far as the Agreement is concerned, there is no dispute as to the existence of the arbitration clause. The learned counsel appearing for the petitioner also asserts that the disputes sought to be referred are in relation to the Agreement dated 26.06.2013.

5. In view of the above, with the consent of the parties, it is directed that an arbitrator be appointed by the Delhi International Arbitration Centre (DIAC) to adjudicate the disputes that fall within the scope of the arbitration clause as quoted above. The arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules.

6. The parties shall appear before the Coordinator, DIAC on 18.05.2018 at 11:00 AM.

7. The petition is disposed of in the aforesaid terms.

8. It is clarified that all rights and contentions of the parties including as to the arbitrability of the disputes sought to be referred, are reserved.

VIBHU BAKHRU, J

MAY 03, 2018
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