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

+ **ARB. A. (COMM.) 43/2018**

BILCARE LIMITED

..... Petitioner

Through Mr. Sandeep Sharma, Mr. Amit
Choudhary, Mr. Nishant Goel, Mr.
Nakul and Mr. Aditya Vashisth,
Advts.

versus

COUNCIL OF SCIENTIFIC AND INDUSTRIAL RESEARCH

..... Respondent

Through Mr. Jayesh K. Unnikrishnan, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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05.09.2018

I.A. 11910/2018

1. Allowed, subject to just exceptions.

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2. Issue notice. Mr. Unnikrishnan accepts notice on behalf of the respondent.

3. Learned counsel says that he does not wish to file a reply and that he will argue the matter based on the record as is presently available.

4. This appeal arises out of the order dated 10.7.2018, passed by the learned Arbitrator, in an application filed by the appellant under Section 17 of the Arbitration and Conciliation Act, 1996 (for short '1996 Act').

5. By virtue of this application, the appellant sought stay of further proceedings in view of the notification bearing no. BRU.2017/CR.46/Ind.10, issued by Government of Maharashtra in exercise of the powers conferred by sub-section (1) of section 3 and sub-clause (iv) of clause (a) of sub-section (1) of section 4 of Maharashtra Relief Undertakings (Special Provisions) Act, 1958 (for short '1958 Act').
6. There is no dispute raised before me that the notification was valid for the period spanning between 17.11.2017 and 16.11.2018.
7. Based on the provisions of the notification, the appellant sought stay on further proceedings pending before the learned Arbitrator.
8. Before one proceeds further, it will be relevant to advert to the provisions of Section 4(1)(a)(iv) of the 1958 Act on which reliance is placed by Mr. Sharma, who appears for the appellant.
9. The appellant, admittedly, had taken financial assistance from the respondent, a transaction qua which disputes have arisen between them.
- 9.1. The respondent therefore sought the payment of the dues which led to the arbitration mechanism being triggered for the appointment of an Arbitrator. The respondent before me is the claimant in the arbitration proceedings.
10. This application upon being filed was resisted by the respondent herein.
11. Several submissions were made by the parties which have been recorded in the impugned order. One of the submissions raised by the respondent before the learned Arbitrator was that the application filed by the appellant under Section 17 of the 1996 Act was not maintainable.

12. On the other hand, the appellant claimed that the application was not only maintainable but that the provisions of Section 4(1)(a)(iv) of the 1958 Act applied to the instant matter with full vigour and, therefore, the proceedings had to be suspended during the subsistence of the aforementioned notification.

13. The learned Arbitrator, while holding that the application filed under Section 17 of the 1996 Act was maintainable has, in fact, not given reasons as to why the proceedings ought to be suspended as was contended by the appellant.

14. The reason given by the learned Arbitrator for holding that the application filed by the appellant under Section 17 of the 1996 Act was maintainable was that the residuary clause in Section 17 of the 1996 Act, which is, sub-Section (1) clause (e) of the said Section gave such leeway.

15. As indicated above, insofar as the other contentions were raised, the learned Arbitrator simply observed as follows:

“....After hearing detailed arguments from both sides and perusing the contents of the application, reply, the provisions of the act, the wording of the notification as well as the authorities cited, it becomes amply clear that the Respondent is unable to make the case that the present proceedings ought to be stayed.”

16. To be noted, as alluded to above, the respondent before the learned Arbitrators is the appellant before us.

17. Having regard to the aforesaid, I am of the view that the learned Arbitrator ought to have given reasons as to why he came to the conclusion that the application filed by the appellant under Section 17 of the 1996 Act, on merits, was not maintainable.

18. The reasons, as has been often said by the courts, are a link between the materials placed before an adjudicating authority and the conclusions arrived at by such an authority.

19. In this particular case, in my opinion, the learned Arbitrator has not articulated his reasons for reaching the conclusion that proceedings before it cannot be suspended under the provisions of 1958 Act and, therefore, this order cannot be sustained.

20. Accordingly, the impugned order is set aside.

21. The learned Arbitrator is requested to rehear the application filed by the appellant under Section 17 of the 1996 Act and dispose of the same with a speaking order.

22. The appeal is disposed of in the aforesaid terms.

23. Needless to say, since there is a time limit provided under the 1996 Act for conclusion of the proceedings, the learned Arbitrator will take up the application for hearing at the earliest, though, not later than one week of the date of receipt of the copy of the order.

RAJIV SHAKDHER, J

SEPTEMBER 05, 2018

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