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

Date of Decision: 15th October, 2018

+ **O.M.P.(I) (COMM.) 393/2018 & I.A. 13734/2018**

SHRI KAMDAR EDUCATION TRUST RAJKOT Petitioner

Through: Mr. Zafar Khurshid, Mr.
Vikramaditya Singh and Mr. Aadil
Singh Boparai, Advocates.
(M:8587010129)

versus

DELHI PUBLIC SCHOOL SOCIETY Respondent

Through: Mr. Puneet Mittal, Senior Advocate
with Ms. Vasudha Bajaj, Advocate.
(M:9999621225)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. The present petition has been filed by the Petitioner under Section 9 of the Arbitration and Conciliation Act, 1996 challenging the termination notice dated 28th March, 2018 issued by the Delhi Public School Society, terminating the arrangement between it and the Petitioner.
2. The Petitioner - Shri Kamdar Education Trust, Rajkot had entered into an agreement with the Respondent on 22nd October, 2001 by which the Petitioner had commenced a school under the name of Delhi Public School, Rajkot. Under the said agreement, the Petitioner used to pay an annual fee for running the school as a joint venture of the Respondent. The said agreement was renewed from time to time. Lastly, an agreement dated 25th September, 2014 was entered into, after the school was operating for more than 15 years. The said agreement dated 25th September, 2014, contains the

following termination clause:

“13. If any of the parties hereto at any time wishes to terminate this Agreement it shall do so by giving at least six months prior notice in writing to the other PARTY of such intention, provided that such termination shall be effective only at the close of the academic session then underway.”

3. For various reasons, the Respondent issued a termination letter dated 28th March, 2018 which reads as under: -

*“DPSS: ADMN: 2017-18/2758
Shri R.V. Kamdar
Chairman
M/s Shri Kamdar Education Trust
5th Floor, Neptune Tower,
Opp. Jalaram Petrol Pump,
Kalavad Main Road, Rajkot- 360001*

Dear Sir,

This has reference to the Agreement signed between the Delhi Public School Society and M/s Shri Kamdar Education Trust (SKET) on September 25, 2014 for Delhi Public School, Rajkot at Kalawad Main Road, Opp. Jalaram Petrol Pump, Rajkot-360001

Please be informed that the competent authority of the DPS Society has decided to invoke Clause no. 13 and hereby gives notice for termination of the above said Agreement with effect from April 01, 2019. Consequently, SKET will not use the Name/Logo of Delhi Public School or any other symbol, logo, name or acronym similar, identical or deceptively similar name/logo/motto of DPSS even if it desires to run a school in the same premises or elsewhere after March 31, 2019 i.e. at the end of the Academic year 2018-19.

Yours sincerely,

Sd/-
R. Taneja
Secretary”

4. The agreement between the parties contains the following arbitration clause:

“16. All questions/ issues relating to the interpretation and meaning of this Agreement and any other dispute and difference arising between the parties hereto either during subsistence of this Agreement or upon termination hereof shall be referred to the sole arbitration of a nominee of the Chairman, DPSS and whose decision shall be final, conclusive and binding on the parties to this Agreement.”

5. The basic grievance of the Petitioner is that it is a school which has been running for more than 15 years and it has several students who are enrolled on its rolls who are being imparted education. The concern which is of immediate nature is the fact that the students who constitute the batch of class 9th and 11th currently would be filling their forms for appearing in the class 10th and 12th Board Exams in the academic session 2019-20 (*‘transition batch’*). The non-registration of these children would result in enormous injury to their educational interest and careers if the name of the school is not used for registering the said students. They may have to leave the school and look for an alternate school. The Petitioner wishes to invoke arbitration and also challenge the legality and validity of the termination. The relief in the present petition, however, is restricted by learned counsel for the Petitioner only in respect of children who are studying in classes 9 and 11.

6. Insofar as the students who will be appearing for the Board Exams for class 10th and 12th in the academic session 2019-20 are concerned, Mr. Mittal submits that they may be permitted to fill their forms and obtain their certificates in the current name. Insofar as the other issues are concerned, he submits that if the Petitioner invokes arbitration, the Respondent would be entitled to defend the same in accordance with law.
7. Accordingly, it is directed that the children in the transition batch currently studying in class 9th and 11th may register themselves with the Central Board of Secondary Education for class 10th and 12th Board Exams for the academic session 2019-20 in the current name of the school i.e., Delhi Public School, Rajkot.
8. The certificates for the transition batch would be issued at the end of the academic session 2019-20 in the name of Delhi Public School, Rajkot.
9. Insofar as any other reliefs which the Petitioner wishes to seek, the Petitioner is left to avail its remedies in accordance with law. If the Petitioner invokes arbitration, the Respondent shall appoint the Arbitrator as per the arbitration clause and the Petitioner's rights to approach the Arbitrator in terms of Section 17 for interim reliefs are left open.
10. The petition is disposed of in the above terms.
11. Copy of this order be given *dasti* under signature of the Court Master.

PRATHIBA M. SINGH
JUDGE

OCTOBER 15, 2018
Rekha