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

+ **ARB.P. 677/2017 and IA No. 3067/2018**

RENAISSANCE AQUA SPORTS PVT. LTD. Petitioner

Through: Mr Sanjay Bansal, Advocate.

versus

GURU GOBIND SINGH INDRAPRASTHA

UNIVERSITY & ANR. Respondents

Through: Ms Ekta Sikri and Mr Jasbir Bidhuri,
Advocates for R-1 & 2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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05.03.2018

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 are stated to have arisen between the concerned parties in relation to an agreement dated 20.11.2014 (hereafter 'the Agreement').

2. It is not disputed that the said Agreement contains an arbitration clause, which is set out below:-

“17. ARBITRATION

In the event of any dispute arising out of this tender/contract/agreement or in connection with the interpretation of any clause in the terms and condition of the tender/agreement/contract or otherwise, the matter shall be referred to the arbitrator appointed by the University.

Courts at Delhi/New Delhi shall have jurisdiction in connection with any dispute/litigation arising between the

parties concerned to the given Contract/Agreement.”

3. Ms Sikri, the learned counsel appearing for the respondents does not dispute the existence of the arbitration agreement; she, however, states that the present petition is pre-mature as the petitioner has not exhausted the procedure for an amicable resolution as specified in Clause 9(iv) of the Agreement. The said clause reads as under:-

“9(iv) Resolution of Disputes

University and the tenderer shall make every effort to resolve the disputes by amicably/direct informal negotiations, any disagreement or dispute arising between them under or in connection with the contract. If after thirty days from the commencement of such informal negotiations, University and the tenderer be unable to resolve amicably a contract dispute, either party may require that the dispute be referred for resolution by formal arbitration. The Vice Chancellor, G.G.S.I.P. University shall appoint a sole Arbitrator of the dispute who will not be related to the contract and whose decision shall be final and binding.”

4. Ms Sikri further states that the petitioner had invoked the arbitration clause when the negotiations for amicable settlement were underway and thus the present petition would be premature.

5. The petitioner had invoked the arbitration clause by a letter dated 04.09.2016 indicating its claims and further calling upon the respondents to pay a sum of ₹17,39,000/-, which according to the petitioner was due at the material time.

6. It is seen that thereafter, on 15.10.2016, a meeting was held between

the representatives of the parties for amicable resolution of the disputes. The minutes of the said meeting, as produced by the respondents, indicates that the petitioner was to submit a proposal. Ms Sikri states that since the said proposal was never submitted by the petitioner, the process of settlement could not be carried forward.

7. At this stage, it is not important to determine the reasons as to why the endeavours for an amicable settlement did not fructify.

8. The attention of this Court also drawn to a letter dated 13.06.2017, whereby the respondents had declined to refer the matter to arbitration by stating that there are no referable disputes.

9. Undisputedly, the petitioner sent another letter dated 06.07.2017 calling upon the respondents to appoint an arbitrator. However, this letter was not responded to by the respondents.

10. In view of the above, this Court is of the view that the Arbitral Tribunal ought to be constituted for adjudicating the disputes between the parties. Accordingly, it is directed that an arbitrator be appointed by the Delhi International Arbitration Centre (DIAC). The Arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules. The parties are directed to appear before the Coordinator, DIAC on 07.05.2018.

11. In the meanwhile, it would be open for the parties to resolve the disputes amicably and for the said purpose, the petitioner would approach the Registrar of the respondent university within a period of one week from today.

12. In the event the parties are able to resolve the disputes on or before 03.05.2018, they shall communicate the same to the Coordinator, DIAC and he would not be required to take any further steps in the matter. However, if the parties are unable to resolve the disputes on or before 03.05.2018, they shall appear before the Coordinator, DIAC as directed.

13. The petition is disposed of with the aforesaid observations. The pending application also stands disposed of.

VIBHU BAKHRU, J

MARCH 05, 2018
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