

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ARBITRATION APPLICATION NO.1 OF 2018

NAVEDKHAN NIYA MATULLAHKHAN PATHAN AND ANOTHER
VERSUS
KABIR INFOTECH COMPANY

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Advocate for Applicants : Shri Pathan Zafar M.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: April 15, 2019

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PER COURT :-

1. While issuing notice on 7.2.2018, this Court (Coram : V.K. Jadhav, J.), had passed the following order:-

" 1. Learned counsel for the applicants submits that the respondent company has placed an offer to the applicants to become franchise of the company and accordingly an agreement came to be executed to that effect. Learned counsel submits that in terms of clause 9 of the said agreement, any dispute, controversy or claim arising out of or relating to the agreement or the breach, termination or invalidity thereof, shall be settled by arbitration and arbitral tribunal shall be composed of three arbitrators and the appointment of the said arbitrators would be as per sub-clause (B) of said clause 9 of the agreement. Learned counsel for the applicants submits that though the applicants have tried their level best to convince the respondent for appointment of arbitrator in terms of sub clauses (A) and (B) of clause 9 of the agreement, however, the respondent-company is not responding.

2. *In view of above, issue notice to the respondent, returnable on 28.02.2018."*

2. Despite service of court notice on the respondent, by paper publication in Daily Lokmat, Aurangabad Edition, no appearance has been entered by the respondent.

3. I have perused the arbitration clause on page 15 of the petition paper book, which indicates from sub-clause (b) that both the sides would appoint individual arbitrators and the two arbitrators would come together and appoint a third arbitrator.

4. Learned Advocate for the applicant submits that, vide notice dated 24.10.2017, the applicants have already appointed Shri M.I. Pathan, Advocate as an Arbitrator. In this backdrop, it is submitted that this Court may appoint any Advocate practicing at Aurangabad and who is enlisted as an Arbitrator, to be the second Arbitrator on behalf of the respondent. Since the name of Shri Sevakchand B. Bakhriya, Advocate Aurangabad is at Sr. No.8 in the circular No.C-1615/2003 issued by the learned Registrar (Judicial) of this Court on 6.8.2018, Shri Bakhriya is appointed as the Arbitrator on behalf of the respondent.

5. In view of the above, this application is allowed. The

applicant shall deposit an amount of Rs.10,000/- for processing the papers by the Registry of this Court to the two Arbitrators, namely, Shri M.I.Pathan Advocate and Shri S.B.Bakhriya, Advocate on/or before 26.4.2019.

(RAVINDRA V. GHUGE, J.)

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