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

+ **ARB.P. 685/2019 & CAV. No. 1064/2019 and IA 14865/2019**

MS. SANCHITA GHOSH AGARWAL

..... Petitioner

Through: Mr. Manish Maini and Ms. Hreeshika
Bhargav, Advs. with petitioner in
person.

versus

**DLF POWER AND SERVICES LIMITED THROUGH: ITS
MANAGING DIRECTOR/CEO**

..... Respondent

Through: Ms. Meghna Mishra, Mr. Dheeraj
Deo and Ms. Riya, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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23.10.2019

CAV. No.1064/2019

As the learned counsel for the caveator appears, caveat stands
discharged.

IA 14865/2019 (for exemption)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

ARB.P. 685/2019

This is a petition filed under Section 11 (6) of the Arbitration and
Conciliation Act, 1996 for appointment of a Sole Arbitrator for adjudicating
the inter-se disputes between the parties.

It is the case of the petitioner that she was appointed in the respondent

organisation vide letter dated September 1, 2010 as a confirmed and permanent employee. As per the terms of the appointment, in case of any dispute of whatsoever nature arises between the petitioner and respondent, the same shall be referred to an Arbitrator who shall be the Company Secretary of the Company and whose decision shall be final and binding. It appears that the petitioner while working as Assistant General manager (Marketing) has been transferred to Chennai. This transfer has been resisted by the petitioner on different grounds. It appears that the issue of transfer became a subject matter of dispute between the petitioner and the respondent. Accordingly, the petitioner invoked the Arbitration Clause vide her Advocate's letter dated August 23, 2019 in terms of Clause 9.10 which reads as under:

“9.10 In case of any dispute of whatsoever nature between you and the Management arises, the same will be referred to an Arbitrator who shall be Company Secretary of the Company whose decision shall be final and binding upon the parties. The Arbitration proceedings shall be held at registered office of the Company at DLF Gateway Tower, 10th Floor, R- Block, DLF Cyber City, Phase-III, Gurgaon in accordance with the provisions of Indian Arbitration & Conciliation Act, 1996. The courts in New Delhi alone shall have the jurisdiction in this regard.”

In the letter, her Advocate had proposed three names, who are on the panel of DIAC out of whom one to be appointed as a Sole Arbitrator. The said request was opposed by the respondent vide their counsel's letter dated August 28, 2019 inasmuch as they have relied upon the same clause, i.e., Clause 9.10 of the appointment letter to contend that the petitioner must withdraw her notice. In other words,

the respondent was of the view that inter-se disputes needs to be decided by the Company Secretary.

It is the submission of the learned counsel for the petitioner that in view of Section 12 (5) of the Arbitration and Conciliation Act read with provisions of the 7th Schedule, the Company Secretary cannot act as an Arbitrator. He states, it is in view of this stipulation, that the petitioner had proposed the names of three persons, out of whom one was to act as a Sole Arbitrator, which request has been declined by the respondent in their communication dated August 28, 2019. This submission of the learned counsel for the petitioner is not vehemently contested by the learned counsel for the respondent.

I agree with the plea taken by the learned counsel for the petitioner inasmuch as the Company Secretary could not have acted as a Sole Arbitrator. Accordingly, I deem it appropriate to appoint Mr. Kuldeep Singh, Retired Addl. District Judge (Mobile No. 9868237722) to be the Sole Arbitrator, who shall adjudicate the disputes and differences between the parties. The terms and conditions of the appointment of the Arbitrator shall be regulated by the provisions of the Arbitration and Conciliation Act, 1996. Let a copy of this order be sent to Sh. Kuldeep Singh for his information.

The petition stands disposed of.

Dasti.

V. KAMESWAR RAO, J

OCTOBER 23, 2019/jg