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

+ **O.M.P.(I) (COMM.) 49/2019**

SHRI KAMDAR EDUCATION TRUST RAJKOT Petitioner

Through: Mr. Zafar Khurshid, Advocate with
Mr. Vikramaditya Singh, Advocate.

versus

DELHI PUBLIC SCHOOL SOCIETY Respondent

Through: Mr. Puneet Mittal, Senior Advocate
with Mr. R.P. Singh and Ms. Vasudha
Bajaj, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **25.03.2019**

1. This is a second petition under Section 9 of the Arbitration and Conciliation Act.
2. The first petition being OMP (COMM) No. 393/2018 was disposed of vide order dated 15th October 2018 as under:-

“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 10 and 12 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.”

3. In terms of the aforesaid order, Petitioner was given liberty to approach the Arbitrator for further interim reliefs under Section 17 of the Act.

4. The Petitioner has since invoked the Arbitration Clause by issuing a notice to the Chairman, Delhi Public School Society dated 30th October 2018. Thereafter, since the Arbitrator has not been appointed, Petitioner has filed the Arbitration Petition No. 12/2019 which is stated to be pending before this Court.

5. The grievance of the Petitioner is that the Arbitral Tribunal having not being constituted, Petitioner has no other remedy to seek further interim reliefs.

6. Mr. Puneet Mittal, learned Senior Counsel for the Respondent, at the outset, on instructions submits that without prejudice to the rights and contentions of the Respondent, in order to put quietus to the matter, Respondent has no objection in case an independent Arbitrator is appointed by this Court.

7. Learned counsel for the Petitioner states, on instructions, that he has no objection to the Court appointing an arbitrator and in case the same is done, he would like to withdraw the present petition with liberty to approach the Arbitral Tribunal for further reliefs in terms of the order dated 15th October 2018.

8. Accordingly, with the consent of the parties, Hon’ble Mr. Justice GP Mittal (Retired Judge, Delhi High Court) (Mob. 9910384619) is appointed

as an Arbitrator.

9. The parties are directed to appear before the Arbitrator as and when notified. Learned Arbitrator will issue a declaration under Section 12 read with the attendant provisions of the 1996 Act before entering upon reference.

10. Registry is directed to dispatch a copy of this order to the learned Arbitrator.

11. The learned Arbitrator will be paid his fee having regard to the provisions of the Fourth Schedule appended to the Arbitration and Conciliation Act, 1996.

12. Copy of this order be given *dasti* under the signatures of the Court Master.

13. The petition is disposed of with liberty granted to the Petitioner as prayed for. Since, the Petitioner seeks urgent interim relief; learned counsel is also permitted shall place the copy of the present petition before the learned Arbitrator with a request to treat the same as being under Section 17 of the Act.

SANJEEV NARULA, J

MARCH 25, 2019

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