

OD-32

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Via Video Conference)

AP/341/2020

SRI NAWALGARH VIDYALAYA COMMITTEE
Versus
JIVEM EDUCATION PRIVATE LIMITED AND ANR.

BEFORE:

The Hon'ble JUSTICE ASHIS KUMAR CHAKRABORTY

Date : 8th December, 2020

Appearance:
Mr. Amritam Mondal, Adv.
...for the petitioner

Mrs. Nibedita Pal, Adv.
Mr. Ram Anand Agarwal, Adv.
...for the respondents

The Court: In this application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (in short, "the Act of 1996"), the petitioner has prayed for appointment of a sole arbitrator to adjudicate the disputes arisen between the parties relating to and arising out of the agreement dated March 23, 2012 being Annexure 'A' to the petition. There is no dispute between the parties with regard to the existence of the arbitration agreement contained in the said agreement dated March 23, 2012 providing that all disputes and differences arising between the parties thereto shall be adjudicated through arbitration under the Act.

The petitioner has also filed an application under Section 9 of the Act being A.P. No. 231 of 2020 and obtained an order dated September 10, 2020 being passed by the Co-ordinate Bench of this Court. The issuance of the notice dated September 21, 2020 issued by the application to the respondents invoking the said arbitration agreement is not in dispute. By the said letter the petitioner nominated a senior advocate of this Court as the Arbitrator to adjudicate the disputes between the parties and requested the respondents to agree to the said nomination. However, the respondents refused to accept the senior advocate named by the petitioner to be appointed as the sole arbitrator. The respondents named two other persons and requested the petitioner to select one of them as the sole arbitrator to adjudicate the disputes between the parties. The petitioner has not agreed to appointment any of the said two persons to be appointed as the sole Arbitrator.

Mrs. Nibedita Pal, advocate appearing for the respondents submitted that the prayer of the petitioner in this application for appointment of an Arbitrator may be allowed.

In the present case, as discussed above it is evident that the agreed procedure for appointment of the sole Arbitrator to adjudicate the disputes between the parties has failed. Thus, the petitioner has substantiated the

ground under Section 11(6) of the Act for approaching this Court to appoint an Arbitrator. Even the respondents have submitted that this Court should appoint the sole Arbitrator.

Accordingly, Mr. Amitabha Ghosh, advocate, Bar Library Club (First Floor) is appointed as the sole Arbitrator to adjudicate disputes between the parties relating to the agreement dated March 23, 2012. The Arbitrator shall be paid a consolidated remuneration of Rs.5 lakh to be borne by the parties in equal share.

The Arbitrator shall also be entitled to engage a stenographer and the secretarial staff whose remuneration shall also be borne by the parties in equal share. The Arbitrator is requested to make and publish its award within eight months from the date of completion of the pleadings of the respective parties. The parties shall render all cooperation to the Arbitrator to conclude the arbitral proceeding as mentioned above.

With the above direction, the application, A.P. No. 341 of 2020 is disposed of without any order as to costs.

(ASHIS KUMAR CHAKRABORTY, J.)

TO