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

+ ARB.P. 358/2021 & I.A. 9705/2021, I.A. 9706/2021, I.A. 9707/2021

ASHOKA UDYOG

..... Petitioner

Through Mr. M. P. Devnath and Mr.  
Abhishek Anand, Advs.

versus

MANAGING DIRECTOR NATIONAL AGRICULTURAL  
COOPERATIVE MARKETING & ORS.

..... Respondents

Through Mr. Varun Shankar, Mr. R.S.  
Lakshmaon, Mr. Divyanshu Jain and Mr.  
Atharva Koppal, Advs. for R-1 and 2  
Mr. Kapil Joshi, Adv. for R-3

**CORAM:**

**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**O R D E R (ORAL)**

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**22.10.2021**

1. This is a petition under Section 11 (6) of the Arbitration and Conciliation Act, 1996, seeking reference of the dispute between the parties to arbitration.

2. The only objection, voiced by Mr. Varun Shankar, to oppose the request, is that the claims of the petitioner are frivolous and that there is no merit, whatsoever, in the case sought to be made out by the petitioner.

3. Given the position of the law, as it emanates from the provisions of the 1996 Act, as well as the judgment of the Supreme Court in *Vidya Drolia v. Durga Trading Corporation*<sup>1</sup>, this cannot a ground for me to

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<sup>1</sup> 2020 SCC OnLine SC 1018

reject the request for referring the dispute to arbitration.

4. Mr. Varun Shankar, learned Counsel for the respondent, has very fairly acknowledged the existence of an arbitration agreement between the parties.

5. The arbitration clause, in the contract between the parties, reads as under:

“19.2 All or any disputes arising out or touching upon or in relation to the terms of this tender document and process thereof including the interpretation and validity of the terms thereof and the respective rights and obligations of the parties shall be settled amicably by mutual discussion failing which the same shall be settled through arbitration. The arbitration proceedings shall be governed by the Arbitration and Conciliation Act of 1996 (as amended up to date) or any statutory amendments/modifications thereof for the time being in force r/w relevant provisions of Multi State Co-operative Societies Act of 2002. The venue of the arbitration shall be at New Delhi, India and language of arbitration shall be English”

6. Learned counsel for the parties *ad idem* are agreeable to the dispute being referred for arbitration to the Delhi International Arbitration Centre (DIAC), which would appoint a suitable arbitrator to adjudicate thereon.

7. In view thereof, the dispute between the parties stands referred for arbitration to the Delhi International Arbitration Centre (DIAC), which would appoint a suitable arbitrator to arbitrate on the dispute.

8. The arbitration would take place under the aegis of the DIAC and would abide by its rules and regulations.

9. The arbitrator would also be entitled to fees in accordance with the Schedule of fees maintained by the DIAC or as otherwise agreed between the parties.

10. This petition stands disposed of in the aforesaid terms.

**OCTOBER 22, 2021**

*dsn*

**C. HARI SHANKAR, J.**



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