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

+ **O.M.P.(MISC.)(COMM.) 207/2020 & I.A. 1147/2021**

HLL LIFECARE LIMITED (HLL) Petitioner
Through **Mr. Ratan K. Singh and Mr. Nikhilesh Krishnan, Advs.**

versus

EMPLOYEES STATE INSURANCE CORPORATION (ESIC) Respondent
Through: **Mr. S.Wasim A. Qadri, Sr. Adv.**
with **Mr. Tamim Qadri, Mr. Saeed Qadri, Advs. and Mr. Baye Lal, AE, ESIC**

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (ORAL)

% **22.01.2021**
(Video-Conferencing)

1. This is a petition under sub-Section (4) & (5) of Section 29 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “the 1996 Act”), for extension of the mandate of learned arbitrator, who is arbitrating on the disputes between the petitioner and the respondent.

2. A counter affidavit has been filed, in response to the petition, in which serious objections have been raised, against the very execution of the agreement, whereunder the arbitration proceedings are continuing. It is alleged, *inter alia*, that the agreement was obtained by fraud and that the matter is subject matter of an investigation by the CBI as well as by the Serious Fraud Investigation Office (SFIO). It is

also urged that the learned arbitrator is *de jure* incompetent to proceed with the matter, in view of Section 12(5) of the 1996 Act, read with VII Schedule thereto.

3. These objections, in my view, ought to be taken up by the respondent by way of separate proceedings, which, as and when filed, would be naturally considered on its own merits. As of today, there is no application by either party, for termination of the mandate of the learned arbitrator either on the ground that the agreement between the parties was executed by fraud, or that the learned arbitrator is *de jure* incapable to continue to act as such.

4. I am also informed that the petitioner has filed voluminous documents before the learned arbitrator, and that hearings before the learned arbitrator are continuing by virtual mode, which naturally handicap access and reference to the said documents.

5. Mr. S. Wasim A. Qadri, learned Senior counsel for the respondent, submits, without prejudice to the rights of the respondent to separately approach this Court for termination of the mandate of the learned arbitrator, that extension of time, if granted, may not be restricted to six months.

6. In view thereof, the mandate of the learned arbitrator stands extended by a period of one year reckoned from today, i.e. 22nd January, 2021.

7. This order shall not be treated as an expression of opinion regarding the contentions advanced by the respondent in its counter affidavit, filed in response to the present petition. The respondent would be at liberty to move this Court by way of appropriate proceedings, for termination of the mandate of the learned arbitrator on the grounds urged in the counter affidavit. Any such application, as and when filed, shall be decided on its own merits.

8. The extension of time, as granted by this order, is strictly, therefore, being granted without prejudice to the submissions contained in the counter affidavit filed by the respondent and without any expression of opinion on the merits thereof.

9. The petition as well as I.A. 1147/2021 stands disposed of in the aforesaid terms.

C. HARI SHANKAR, J.

JANUARY 22, 2021

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