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

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Date of decision: 22.10.2021

+ ARB.P. 946/2021

EXTRAMARKS EDUCATION INDIA PRIVATE LIMITED

..... Petitioner

Through Mr. Zeeshan Hashmi, Adv.

versus

RISHABH ACADEMY & ORS.

..... Respondents

Through None.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (oral)

The hearing has been conducted through video conferencing.

1. The present petition has been filed by petitioner seeking appointment of Sole Arbitrator under the provisions of Section 11 of the Arbitration and Conciliation Act, 1996 for adjudication of disputes with the respondents.
2. Petitioner - Extramarks Education India Private Limited, is a company incorporated under the Companies Act, 2013. Respondents no.1 and 2 are educational institutions, which are managed by respondent no.3 and owned by respondent no.4.

3. According to petitioner, respondents entered into agreements on 13.11.2017, 01.02.2018, 08.03.2018 and 26.04.2018 for sale, implementation, installation of hardware, software and multimedia system accessories for the purpose of setting up of 67 Smart Learn Classes at the premises of respondent nos.1 & 2. However, despite agreeing to the payment schedule mentioned in the Agreements and multiple reminders sent by the Petitioner, respondents have only paid a minor share of the total amount due, as per the terms and condition agreed between the parties.

4. According to the petitioner, a demand letter dated 25.08.2020 was sent to the respondents for the payment of outstanding amount, which was replied by the respondent on 07.09.2020. Thereafter, petitioner sent a counter reply dated 05.10.2020 & reminder notice dated 29.10.2020 to the respondent nos.1, 3 & 4, which were not replied by the respondents.

5. During the course of hearing, learned counsel for the petitioner submits that petitioner has already invoked arbitration vide notice dated 02.08.2021 under Section 21 of the Arbitration and Conciliation Act, 1996 for invocation of arbitration under clause 13 of the abovementioned agreements and requests this Court to appoint an arbitrator to adjudicate the disputes between the parties.

6. It is pertinent to mention here that despite service affected upon the respondents, no one has appeared on their behalf. An affidavit of service has also been filed by the petitioner. Hence, it seems that the respondents have chosen not to object the present petition.

7. Accordingly, **Mr. R.B.Singh, DHJS (Retd.)** is appointed the sole Arbitrator to adjudicate the dispute between the parties.

8. The fee of the learned Arbitrator shall be governed by the Fourth Schedule of the Arbitration and Conciliation Act, 1996.

9. The learned Arbitrator shall ensure compliance of Section 12 of Arbitration and Conciliation Act, 1996 before commencing the arbitration.

10. The present petition is accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

OCTOBER 22, 2021

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