

Vinita

IN THE HIGH COURT OF BOMBAY AT GOA.

APPLICATION FOR APPOINTMENT OF ARBITRATOR

NO. 2 OF 2022

THE INDIAN HOTELS COMPANY LTD. ...Applicant.

VS

STATE OF GOA, THR. CHIEF ...Respondents.

SECRETARY, GOVT. OF GOA AND 2

ORS.

Mr. Rafiq Dada, Senior Advocate with Mr. Zubair Dada, Mr. Rajesh Satpalkar, Mr. Iftikhar Agha, and Ms. Valencia Fernandes, Advocates for the Applicant.

Mr. Devidas Pangam, Advocate General with Ms. Maria Correia, Addl. Govt. Advocate for the respondents.

CORAM: MANISH PITALE, J.

Date: 21st FEBRUARY, 2022

P.C.

This is an application filed under Section 11(6) of the Arbitration and Conciliation Act, 1996. The present application is made in the backdrop of an arbitration clause in a deed of lease dated 19.6.1997 executed between the parties. There are certain disputes that have arisen between the parties. Clause 22 of the Agreement which provides for arbitration reads as follows:-

“In the event of any dispute or difference arising out of or in any way relating to or concerning these presents or the construction or effect of these presents, the same shall be referred to the arbitration of a person to be appointed by the

Secretary to the Government of Goa, Department of Tourism, Panaji. The Lessee will not be entitled to raise objection to any such appointment on the ground that the sole arbitrator is a Government Servant or that he had dealt with the matters to which these presents relate or that in the course of his duties as such Government servant he had expressed views on all or any of the matters in dispute or difference. In the event of such arbitrator being transferred or vacating his office or refusing or being unable to act for any reason whatsoever, it will be open to the Secretary to the Government of Goa, Department of Tourism, Panaji, to appoint another person in his place. The Arbitrator so appointed will be entitled to proceed with the reference from the stage at which it was pending. From the time to time, the Arbitrator may, with the consent of both the parties to these presents, extend the time for making the award. The award of the Arbitrator shall be final and binding on the parties to these presents. Subject as aforesaid, the Arbitration and Conciliation Act, 1996, (Central Act 26 of 1996) and the rules made thereunder shall apply to the arbitration proceedings under this clause."

2. There is no dispute about the fact that the applicant had approached the Secretary, Department of Tourism, Government of Goa, i.e respondent herein for referring the dispute to arbitration. In pursuance of the said request an arbitrator could not be appointed, due to which the applicant was constrained to file the present application. Upon notice being issued, the respondents have appeared before this Court. The learned Advocate General represents the respondents herein.

3. Today when the matter is called out for consideration, Mr.Rafiq Dada, learned Senior Counsel appearing for the applicant and Mr. D. Pangam, learned Advocate General appearing for the respondents, on instructions, state that the parties are agreeable for appointment of Justice Shri S. C. Gupte (Retired), former Judge of this Court, as an arbitrator to whom the disputes between the parties could be referred. Considering the agreement expressed on behalf of the rival parties, the present application is allowed by appointing Justice Shri S. C. Gupte(Retired) as the sole arbitrator.

4. The application stands disposed of. If, for any reason, the learned arbitrator has any reservation or difficulty in taking up the matter, the parties will be at liberty to approach this Court.

MANISH PITALE J.