

Narendra Dengle & Associates Architects through its Sole Proprietor Vs.	...	Petitioner
Savitribai Phule Pune University	...	Respondent

Mr. Rajendra Anbhule for Respondent.

CORAM : MANISH PITALE, J.
DATE : NOVEMBER 24, 2022

P.C. :

. This is a petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of an arbitrator. The petitioner is a proprietary concern, which was appointed as the Architect for projects of the respondent-University. There were eight agreements executed between the parties, concerning the appointment of the petitioner as the Architect. Out of these, two agreements were executed on 30.05.2013 and the remaining six agreements were executed on 28.06.2014.

2. All the agreements contain an arbitration clause for settlement of disputes. The arbitration clauses are almost identical in all the agreements, except that in some of the agreements, the venue of arbitration is specified as Pune and it is further stipulated that the cost of arbitration shall be borne equally by the parties.

3. Arbitration clause in one of the agreements dated 30.05.2013 reads as follows:-

“4. Any dispute arising in relation to or in connection with this Agreement between the parties shall be resolved by mutual negotiations. In case of any unresolved dispute, the parties shall

refer the said dispute for arbitration, to the sole arbitrator appointed by the Vice-Chancellor of the University and the decision of the arbitrator shall be final and binding on both the parties. The provisions of Arbitration and Conciliation Act, 1996 shall apply to such arbitration.”

4. Learned counsel for the parties submit that the venue of arbitration can be Pune and that the parties shall indeed bear the cost of arbitration equally.

5. It is brought to the notice of this Court that the petitioner had invoked the arbitration clause, pertaining to these agreements, requesting the respondent-University to appoint an arbitrator, to which there was no response on behalf of the University.

6. In these circumstances, this Court is convinced that sufficient ground is made out for allowing the present petition. But, one aspect of the matter needs consideration viz., the arbitration clause is framed in such a manner that the Vice-Chancellor of the respondent-University has the power and authority to appoint the sole arbitrator. This is in the teeth of Section 12(5) read with Schedule VII of the aforesaid Act and by operation of law, the Vice-Chancellor of the respondent-University is disqualified from appointing an arbitrator. In this situation, the parties have agreed before this Court to appoint a sole neutral arbitrator. In this backdrop, learned counsel for the parties, on instructions, jointly request for appointment of Mr. Govind K. Rathod, Retired District Judge as the sole arbitrator.

7. Accordingly, Govind K. Rathod, Retired District Judge is appointed as the Arbitrator to adjudicate the disputes between the parties pertaining to all eight agreements that are subject matter of the present petition.

8. Details of the learned arbitrator are as follows:-

Mr. Govind K. Rathod

Flat No.501, Shrikrishna Apartment,
Sardar Shitolewada,
Near Kasba Ganpati, Pune - 11
Mobile No.+91 75886 63999

9. The parties are directed to immediately inform the learned arbitrator about the order passed today.
10. Learned Arbitrator is requested to submit his consent and disclosure statement in terms of Sections 11(8) read with 12(1) of the aforesaid Act within four weeks to the Registrar (Judicial) of this Court.
11. The fees of the learned Arbitrator shall be fixed in terms of the Fourth Schedule to the aforesaid Act.
12. All questions are kept open.
13. Petition stands disposed of.
14. Mr. Wadikar, learned counsel for the petitioner informs that ninth such agreement was executed between the parties but the petitioner is not having copy of the said agreement in its custody.
15. In these circumstances, the question of seeking appointment of the arbitrator as regards the said 9th agreement is kept open.

(MANISH PITALE, J.)

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