

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

ARBITRATION APPLICATION NO. 152 OF 2020

Vihar Hospitality ..Applicant
Vs.
HCG Apex Cancer Centre ..Respondent

Mr. Manoj Mhambrey for Applicant.
Mr. Rohan Sonawane for Respondent.

CORAM : G.S. KULKARNI, J.
DATE : JULY 04, 2022.

P.C.:

1. This is an application filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, “the Act”) whereby the applicant has prayed for appointment of an arbitral tribunal for adjudication of the disputes and differences which have arisen between the parties under an agreement dated 30 April, 2017 titled as “Service Agreement”. The arbitration agreement is contained in clauses 11.1 and 14.9 of the agreement in question. There is no dispute that there is invocation of the arbitration agreement by an e-mail dated 19 May, 2020.

2. The contract in question was for providing hospitality services at the centre of the respondent for a duration of about 10 years, however, the same came to be terminated by the respondent by one month’s notice dated 19 May, 2020 with effect from 18 June, 2020. The termination clause in the agreement is clause 11.1 which provides that either party shall have the right to terminate the agreement by giving 30 days of prior written notice to the other.

3. Being faced with the termination, the applicant by its advocate's notice dated 10 June, 2020 invoked the arbitration agreement, inter-alia calling upon the respondent to pay an amount of Rs.2,629,818.40. As there was no consensus between the parties for appointment of an arbitral tribunal, the present application came to be filed.

4. The respondent is represented by Mr. Sonawane, advocate. He makes a statement that his client would not have any objection for the disputes and differences to be referred for adjudication by appointing an arbitral tribunal. He also does not dispute the invocation of the arbitration agreement.

5. In view of the consensus between the parties for disputes and differences between the parties to be referred to arbitration, this Court needs to exercise its discretion under Section 11(6) of the Act and appoint an arbitral tribunal. Hence, the following order:-

ORDER

(i) Ms. Vidya Nair, Advocate of this Court, is appointed as a sole Arbitrator to arbitrate the disputes and differences between the parties under the Service Agreement dated 30 April, 2017;

(ii) The learned prospective sole arbitrator, before entering the reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of this application with a copy to be forwarded to both the parties;

(iii) The fees payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018.

(iv) At the first instance, the parties shall appear before the prospective arbitrator within 15 days from today on a date which may

be mutually fixed by the prospective sole arbitrator;

- (v) All contentions of the parties are expressly kept open;
- (vi) Needless to observe that it would be opened for the respondents to raise their counter-claim.
- (vii) The application is disposed of in the above terms. No costs.
- (viii) Office to forward a copy of this order to the learned Arbitrator on the following address:

“Address: Chambers of Zubin Behramkamdin, 302, Yusuf Building, M.G. Road, Fort, Mumbai-400 001.

Mobile No. 9821916007

E-mail ID: nair.vidya89@gmail.com”.

[G.S. KULKARNI, J.]