

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO.189 OF 2022

Bridgestone India Private Limited	...	Petitioner
Vs.		
M/s. Super Tire LLP and others	...	Respondents

Ms. Niyati Shah Chitnis a/w. Mr. Abhishek Chitnis for Petitioner.

Ms. Komal Bharat Shah for Respondents.

CORAM : MANISH PITALE, J.

DATE : JANUARY 20, 2023

P.C. :

1. By this petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, the petitioner is seeking appointment of a sole arbitrator in the context of an arbitration clause contained in a dealership agreement.

2. The arbitration clause reads as follows:-

“17.1 All disputes and differences of whatsoever nature, whether existing or which shall at any time arise between the parties hereto touching or concerning the agreement, meaning, operation or effect thereof or to the rights and liabilities of the parties or arising out of or in relation thereto whether during or after completion of the Agreement or whether before or after termination or breach of the agreement shall be referred to the arbitration of a sole arbitrator in accordance with and subject to the provisions of Arbitration and Conciliation Act, 1996, the Arbitration & Conciliation (Amendment) Act, 2015 or any further statutory modification or re-enactment thereof and the rules made thereunder.”

3. The arbitration clause further specifies Pune as the place where the arbitration shall be undertaken. As disputes arose between the parties, by notice dated 11.06.2022, the petitioner invoked arbitration clause suggesting four names from amongst whom an arbitrator could be appointed. The respondents did not send any reply to the said notice despite service, necessitating filing of the present petition.

4. This Court is convinced that jurisdiction under Section 11(6) of the said Act can be invoked in the facts and circumstances of the present case as the agreed procedure for appointment of the arbitrator has failed.

5. At this stage, learned counsel appearing for the respondents, on instructions, submits that from amongst the four names suggested in the invocation notice, respondents are agreeable to the appointment of Justice Shalini Phansalkar-Joshi, a former Judge of this Court, as the sole arbitrator.

6. Accordingly, Justice Shalini Phansalkar-Joshi is appointed as the Sole Arbitrator for adjudicating the disputes between the parties. The contact details of the learned Arbitrator are as follows:-

Hon'ble Smt. Dr. Justice Shalini Phansalkar-Joshi

Bungalow No.12, Bhagya Chintamani Nagar,

Poud Road, Kothurd, Pune-411 038.

Mob.: 9657188676

E-mail: phansalkarjoshi@gmail.com

7. The parties undertake to inform the learned Arbitrator about the order passed today.

8. Learned Arbitrator is requested to submit her 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.

9. The fees of the learned Arbitrator shall be fixed in terms of the Fourth Schedule to the aforesaid Act.

10. All questions are kept open.

11. Petition stands disposed of.

12. Learned counsel for the respondents undertakes to file *Vakalatnama* by Monday (23.01.2023).

(MANISH PITALE, J.)