

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO. 50 OF 2022**

Tata Classedge ... Applicant
vs.
Saraswati Shishu Higher Secondary School ... Respondent

Mr. Ghanshyam K. Tripathi for applicant.

**CORAM : MANISH PITALE, J.
DATE : 01st SEPTEMBER, 2023**

P.C. :

1. This is an application filed under Section 11 of the Arbitration and Conciliation Act, 1996, for appointment of arbitrator, in the light of an arbitration clause in an agreement executed between the parties. The applicant had provided certain software and hardware to the respondent as per the agreement and disputes, if any, between the parties, were to be settled through arbitration by a sole arbitrator, as per the arbitration clause contained in the agreement.

2. This Court is informed that the applicant had filed a suit before the City Civil Court in respect of its claim towards recovery of certain amount from the respondent. In the said suit, the respondent appeared and filed application under Section 8 of the said Act, relying upon the arbitration clause. It is an admitted position that the said application was allowed by the Court, in the light of the arbitration clause/agreement executed between the parties.

3. It is further brought to the notice of this Court that by a letter dated 06.10.2021, the petitioner had proposed names from amongst whom, an

arbitrator could be appointed. The respondent received the said letter, but disagreed to the suggestion of appointment of an advocate as the sole arbitrator.

4. It is the case of the applicant that the agreed procedure between the parties for appointment of arbitrator, failed and that therefore, this Court may exercise power under Section 11(6) of the said Act for appointment of sole arbitrator.

5. Learned counsel for the applicant invited attention of this Court to the arbitration clause as well as notice and also affidavit of service placed on record, showing that the respondent was duly served. Despite service, none has appeared on behalf of the respondent.

6. Having heard the learned counsel for the applicant, this Court is convinced that the present application deserves to be allowed and a sole arbitrator can be appointed for resolution of disputes between the parties.

7. Considering the extent of claim of the applicant, it would be appropriate that an advocate practising in this Court, is appointed as a sole arbitrator.

8. Accordingly, Advocate Mahesh Menon is appointed as the sole arbitirator for resolution of disputes between the parties. Details of the learned arbitrator are as follows:

10, 1st floor, 645, J. S. S. Road,
Near Metro Theatre, Dhobi Talao,
Mumbai – 400 002.
Tel.: 022-43112500
Email: mmcolaw@hotmail.com

9. The applicant undertakes to inform the learned arbitrator about the order passed today at the earliest.
10. The learned arbitrator is requested to submit his consent and disclosure statement in terms of Sections 11(8) and 12(1) of the aforesaid Act within four weeks from today to the Prothonotary and Senior Master of this Court. The fees of the learned arbitrator shall be as per the Fourth Schedule to the said Act.
11. The learned arbitrator shall issue notice to the respondent, while initiating the arbitral proceedings.
12. All questions are left open for determination by the learned arbitrator.
13. The application stands disposed of.

(MANISH PITALE, J.)

Priya Kambli