



A.No.4771 of 2022
in CS.No.204 of 2022

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R.N.MANJULA, J

The plaintiffs have filed a suit against the defendants for permanent injunction and other reliefs. The defendant has filed this application stating that the dispute between the plaintiffs and the defendant should be resolved through arbitration and in this regard, there is a Arbitration clause in the agreement entered into between the parties.

2. The applicant/defendant is The Indian Orthodontic Society, which is registered under the provisions of the Societies Registration Act. The Society is governed by its Constitution, Bye-Laws, Rules and Code of Ethics. Rule 48 of its Bye-Laws and Rules is an Arbitration clause and that would read as under:-

“48 ARBITRATION

a. In settling of disputes, if the matter is as yet unresolved despite being successively addressed by the Internal Mechanism within the IOS: of the Constitution Committee (CC) and the Executive Committee (EC); the still unresolved dispute shall be dealt with by Arbitration in accordance with



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the provisions of the Arbitration and Reconciliation Act, 1996 and subsequent amendments thereof. There shall be two levels of arbitration possible: internal and external.

- *Internal Arbitration: The IOS GB in an AGM shall appoint a panel of 3 to 5 Arbitrators who are senior IOS members of good standing. The details are specified in Article 48 (b), Rule 3 (c).*
- *External Arbitration: If any dispute is yet unresolved after being addressed by the aforementioned 'internal arbitrators', it shall be referred to another panel appointed by the GB that has senior members from outside of IOS membership who may be non-orthodontists. These members shall have in-depth understanding and experience of administrative challenges in Societies/Associations of professionals.*

None of the aggrieved parties in any dispute can seek intervention of any Judicial Authority unless the existing avenues to resolve a grievance are first exhausted.

b Bye-laws, Rules, and Regulations of Arbitration and Conciliation:

All disputes between the members in terse; members and outsiders; Society and members and Society and outsiders concerning the business of the Society, and / or Articles of the Constitution, Bye-laws; rules and regulations and Constitution



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WEB COPY *of the Society shall be subject to arbitration as provided by the Bye-laws, Rules, and Regulations of Arbitration and Conciliation of the IOS. The entire contract between the Society and outsiders shall be subject to arbitration as per the arbitration procedure provided in the Bye-Laws, Rules, and Regulations of Arbitration and Conciliation as mentioned below in Article 48(a).”*

3. If there is any dispute between the Society and its members, the Societies General body in its Annual General Meeting shall appoint the panel of 3 to 5 Arbitrators, who are senior members of good standing. In spite of the same, if there is any unresolved dispute, that could be resolved by the Internal Arbitration. The General Body shall appoint senior members from outside membership, who may be non-orthodontists to resolve the disputes. When such a mechanism is contemplated under the Constitution, Bye-Laws, Rules and Code of Ethics under Rule 48, the respondents/plaintiffs are barred to institute a suit. The present litigation as seen from the reliefs is in respect of the action that might be taken against the plaintiffs based on the report of the Committee appointed by the Society.



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4. On 16.09.2022, an order has been passed by this Court by keeping the subject against the plaintiffs at abeyance in the General Body Meeting dated 17.09.2022. In the General Body Meeting dated 17.09.2022, none of the respondents had appeared. In view of the order of the Court, the subject against the plaintiffs was kept in abeyance. It is open to the plaintiffs to invoke Rule 48 of the Constitution and seek reference to the Internal Committee and get their disputes resolved through arbitration as per Section 8 of the Arbitration and Conciliation Act. The Judicial Authority shall refer the matter to the arbitration, if he finds that there exists a valid arbitration agreement. Hence, the order should be passed by referring the parties to Arbitration in accordance with the Arbitration Agreement.

5. In view of the above, this application is allowed.

**31.08.2023
(1/2)**

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