

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE SEVENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

ARBITRATION APPLICATION No: 106 OF 2022

Between:

M/s MDN Edify Education Private Limited, Represented by its Authorized Representative, Mr A. Shiva Krishna, S/o. AC Rayudu having their office at Kabra Complex 61 M.G Road, Secunderabad

...Applicant

AND

Meenatchy Shanmugam Educational Trust, Represented by its ER. S. Srinivas, Having office at : 49 - Subbarayalu Nagar, Cuddalore - 2, Cuddalore district, Tamil Nadu - 607001

...Respondent

Arbitration Application Under Section 11 of Arbitration & Conciliation Act, 1996, read with Scheme for Appointment of Arbitrator, 2000. The applicant prays that this Hon'ble Court may be pleased to pass a judgement and decree as follows-

a) To appoint Arbitrator for settlement of dispute between the applicant and respondent with regard to the claim of the applicant with interest & damages in pursuance of Franchise Agreement dated 25-01-2017

Counsel for the Petitioner: SRI DAMODAR MUNDRA

Counsel for the Respondent: M/s INDUS LAW FIRM

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

ARBITRATION APPLICATION No.106 of 2022

ORDER:

This application is filed by the applicant to appoint an arbitrator to adjudicate the disputes between the parties with regard to the claim of the applicant with respect to the damages in pursuance of Franchise Agreement dated 25.01.2017.

2. It is claimed that the applicant is a private limited company and authorized user of copyright and trademark 'EDIFY SCHOOLS' having its registered office at M.G. Road, Secunderabad. The applicant and the respondent entered into Franchise Agreement on 25.01.2017 to regulate the terms and conditions on which the franchisor would provide infrastructure, capital and operational investment to the franchisee and the franchisee would successfully run, operate the educational institution under the brand name and style Edify World School for franchisor at the designated location in the State of Tamil Nadu.

3. It is stated that the as per the Franchise Agreement, the applicant was conducting training program of the respondent faculty and the respondent was running the school under the name and style of M/s. MDN Edify Education and getting good response on account of hard work and planning of applicant as per the terms

of the Franchise Agreement. It is alleged that the respondent mischievously and with a malafide intention used or allowed to use the intellectual property other than approved by the applicant. It was obligatory that the applicant will allow the respondent to use its Logo/Trademark to be displayed on the signboard to be placed at the respondent's school on each receipt issued by the licensee towards the sale of products and services affected from the school.

4. It is further stated that in view of non-compliance of the said franchise agreement and alleged breach of contract by the respondent, the applicant was left with no choice but to terminate the franchise agreement by invoking clauses 10.6 and 10.8 of the franchise agreement dated 25.01.2017. The respondent failed and neglected to respond to the notice and as such, the respondent was liable to pay outstanding consultation amount of Rs.26,90,519/- and termination fee equivalent to Rs.1,50,00,000/- as per clause 13.9 of the franchise agreement along with damages under clause 13.8. Clause 16 of the franchise agreement provides for arbitration.

5. In view of the above dispute, the applicant issued legal notice dated 27.04.2022 appointing Mr. B. Venugopal as arbitrator and respondent was called upon to give consent with regard to appointment within 30 days of receipt of the notice. But the

respondent failed to give a reply. In the circumstances, arbitration application was filed.

6. After issuance of notice to the respondents, appearance was entered on behalf of the respondent on 21.09.2022. By order dated 22.12.2022, the respondent was directed to file counter by the next date of hearing and the matter was directed to be listed on 05.01.2023. It was also made clear that the matter will be heard on merits, if counter is not filed. Counter has not been filed till date.

7. The agreement dated 25.01.2017 provides for arbitration at clause No.16. Notice dated 27.04.2022 was issued through registered post and acknowledgement due to the respondent intimating that Mr. B. Venugopal is appointed as arbitrator and the respondent was requested to give consent for appointment of arbitrator within one month. As per the averments of the application, notice was served on the respondent and there is no denial in the form of counter to this application.

8. Heard learned counsel for the applicant and learned counsel for the respondent.

9. In view of the above facts and circumstances pleaded by the applicant, it emerges that there is no dispute with regard to execution of franchise agreement dated 25.01.2017 between the

parties and clause 16 of the said agreement provides for resolution of dispute arising between the applicant and the respondent through arbitration. The applicant invoked arbitration by issued notice dated 27.04.2022, thus there is compliance of procedure under Section 11 of the Arbitration and Conciliation Act, 1996. Having regard to the above, the arbitration application is allowed.

9. In view of the same, Sri. E. Jagannadha Reddy, Retired District Judge, Flat No.202, Bagh Amberpet, Yashoda Residency, Somasundara Nagar, Street No.13, Central Excise Colony, Hyderabad - 500 013, is appointed as arbitrator to adjudicate the claims and disputes between the parties and to pass an award in accordance with law. The parties are at liberty to raise all factual and legal grounds in support of their respective claims.

10. The learned Arbitrator is entitled to fees as per the rates specified in the Fourth Schedule to the Act of 1996, inserted by Act 3 of 2016 with effect from 23.10.2015, which shall be borne by both parties in equal shares.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

//TRUE COPY//

Sd/-M.VIJAYA BHASKAR
JOINT REGISTRAR

Gp

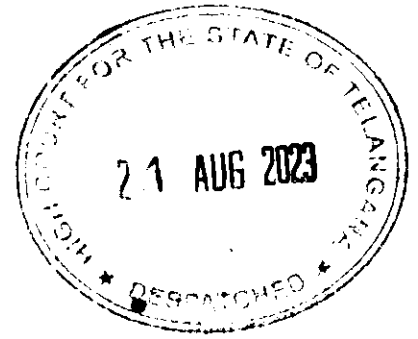
SECTION OFFICER

To,

1. Sri E. Jagannadha Reddy, Retired District Judge, Flat No.202, Bagh Amberpet, Yashoda Residency, Somasundara Nagar, Street No.13, Central Excise Colony, Hyderabad - 500 013. (BY SPECIAL MESSENGER) (Along with a copy of affidavit and material papers)
2. One CC to SRI DAMODAR MUNDRA, Advocate [OPUC]
3. One CC to M/s INDUS LAW FIRM [OPUC]
4. Two CD Copies

HIGH COURT

DATED:07/08/2023



ORDER

ARBAPPL.No.106 of 2022

**THE ARBITRATION APPLICATION
IS ALLOWED**

6 copies
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21/8/23