

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO. 40 OF 2024

Dew Pond Engineers Private Limited

...Petitioner

Vs.

Raosahebdada Pawar Ghodganga Sahkari

Sakhar Karkhana Ltd.

...Respondent

Adv. Shreyas Baraswade (through VC) i/by S. S. Chauhan for the Petitioner.

CORAM : ARIF S. DOCTOR, J.

DATE : 13TH NOVEMBER, 2024

P.C.:-

1. The present Petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator. The Respondent though served have today not appeared. Thus, the Petition is taken up for hearing.

2. Learned Counsel for the Petitioner has invited my attention to agreement dated 24th September, 2015 entered into between the Petitioner and Respondent for the work of Design, Procure, Manufacture, Supply, Erection, Commissioning and giving the Performance Trials for Cooling Tower and Water handling System for a product known as the cogent project. Learned Counsel invited my attention to the arbitration clause contained in the said agreement

and has further invited my attention to the notice invoking arbitration dated 17th October, 2023. He submits that notice though duly served has gone unresponded and it is thus that the present Petition is filed.

3. Having heard Learned Counsel, I am prima facie satisfied that there exists a valid agreement for arbitration which has been duly invoked. Hence, keeping in view the well settled position of law, I find that the case for the appointment of an Arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996 has been made out. I thus allow the Petition and appoint Ms. Akanksha Agrawal, Advocate of this Court as Sole Arbitrator to decide the disputes and differences between the parties on the following terms:-

TERMS OF APPOINTMENT

- (a) Appointment of Arbitrator:** Ms. Akanksha Agrawal is hereby nominated to act as a Sole Arbitrator to decide the disputes and differences between the parties.
- (b) Communication to Arbitrator of this order:**
 - (i)** A copy of this order will be communicated to the learned Sole Arbitrator by the Advocates for the Petitioner within one week from the date this order is uploaded.
 - (ii)** The Advocates for the Petitioner will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses:

Arbitrator/s Ms. Akanksha Agrawal

Address C/o Zal Andhyarujina, 302
Mistry Mansion, 107 MG Road,
Fort, Mumbai.

Mobile 9920482122

Email Akanksha.agrawal@outlook.co
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- (c) **Disclosure:** The learned Sole Arbitrator is requested to forward, in hard copy or soft copy (or both), the necessary statement of disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to Advocates for the parties as soon as possible. The Advocates for the Petitioner will arrange to file the original statement in the Registry. If the statement is forwarded in soft copy, a print out of the covering email is also to be filed in the registry.
- (d) **Appearance before the Arbitrator:** Parties will appear before the learned Sole Arbitrator on such date and at such place as the learned Sole Arbitrator nominates to obtain appropriate directions in regard to fixing a schedule for completing pleadings, etc.
- (e) **Contact/communication information of the parties:** Contact and communication particulars are to be provided by both sides to the learned Sole Arbitrator. The information is to include functional email addresses and mobile numbers.
- (f) **Section 16 application:** The respondent is at liberty to raise all questions of jurisdiction within the meaning of section 16 of the Arbitration Act. All contentions are left open.

- (g) **Interim Application/s:**
- (i) Liberty to the parties to make an interim application or interim applications including (but not limited to) interim applications under Section 17 of the Arbitration & Conciliation Act, 1996 before the learned Sole Arbitrator. Any such application will be decided in such manner and within such time as the learned Sole Arbitrator deems fit.
 - (ii) The learned Sole Arbitrator is requested to dispose of all interim applications at the earliest.
- (h) **Fees:** The arbitral tribunal's fees shall be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.
- (i) **Sharing of costs and fees:** Arbitral costs and the fees of the arbitrator will be borne by the two sides in equal shares in the first instance.
- (j) **Consent to an extension if thought necessary.** Parties immediately consent to a further extension of up to six months to complete the arbitration should the learned Sole Arbitrator find it necessary.
- (k) **Venue and seat of arbitration:** The venue and seat of the arbitration will be in Mumbai.

4. The Petition is disposed of in these terms. No costs.

(ARIF S. DOCTOR, J.)