

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO. 101 OF 2024

Progressive Education Society Through Shamakant ...Petitioner
Shrikant Deshmukh

Versus

Pune Metropolitan Region Development Authority & ...Respondents
Anr

Mr Sugandh Deshmukh, with Irvin Dsouza, for the Petitioner.

None for the Respondents.

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CORAM. ARIF S. DOCTOR, J

DATED: 15th July 2024

PC:-

1. The present Arbitration Petition is under Section 11 of the Arbitration and Conciliation Act 1996. Mr Deshmukh, Learned Counsel appearing on behalf of the Petitioner submits that the Respondents are served. To prove the service upon Respondent No. 2, he places reliance upon an Affidavit of Service dated 12th July 2024. Insofar as Respondent No. 1 is concerned, he undertakes to file Affidavit of Service on or before 22nd July 2024 proving service of the present application.

2. Mr Deshmukh invites my attention to a Memorandum of Understanding ("MoU") dated 3rd January 2022 entered into between the Plaintiff and Respondent No. 1-PMRDA. He submits that

Respondents Nos. 1 and 2 are jointly executing the project and thus Respondent No. 2 has been joined to these proceedings. From the MoU, he invited my attention to the arbitration clause which contains in clause 25. This is how it reads:

“Any dispute or differences in the terms and conditions finalized herein, the same shall be resolved through arbitration under the terms and conditions as per the provisions of Arbitration Act, 1996, as may be decided by both the parties.”

3. He also invites my attention to a letter dated 12th March 2024, by which the arbitration clause was invoked by the Petitioner against PMRDA. He submits that there is no response to this. It was pointed out by Mr Deshmukh that the Arbitration has been invoked only against Respondent No. 1. There is no separate invocation against Respondent No. 2, to which he submits that he only pressing arbitration against Respondent No. 1 and not against Respondent No. 2.

4. In these circumstances and given that parties are from Pune, I appoint Mr Shivam Nimbalkar, Advocate, to act as a Sole Arbitrator to decide the disputes and differences between the parties arising out of an MoU dated 3rd January 2022, on the following terms and conditions.

TERMS OF APPOINTMENT

- (a) Appointment of Arbitrator:** Mr Shivam Nimbalkar, Advocate, is hereby nominated to act as a Sole Arbitrator to decide the disputes and differences between the parties under the Partnership Deed dated 27th March 2009.
- (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 **Mr Shivam Nimbalkar,**
Advocate

Address Chamber No. 68, Lawyers
Chambers, District Court,
Shivaji Nagar Pune 411 005

Mobile 99231 95682

Email nimbalkar.shivam@gmail.com

(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) 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.

(g) Fees: The arbitral tribunal's fees shall be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.

(h) Sharing of costs and fees: Parties agree that all arbitral costs and the fees of the arbitrator will be borne by the two sides in equal shares in the first instance.

- (i) **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.
 - (j) **Venue and seat of arbitration.** Parties agree that the venue and seat of the arbitration will be in Pune
- 5. All rights and contentions of both parties are kept open.
- 6. The Petition is disposed of in these terms. No costs.

(ARIF S. DOCTOR, J)