

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
IN ITS COMMERCIAL DIVISION**

COMMERCIAL ARBITRATION PETITION NO.28 OF 2024

Darpan Medical & Welfare Foundation & Anr. ... Petitioners

V/s.

Satish Surajmal Surana ... Respondent

Mr. Bhushan Rajendra Dhoka a/w Mr. Aniruddh Vasudev Bhat i/by Rohit
Prabhakar Bidwe for the Petitioners.

CORAM : ARIF S. DOCTOR, J.

DATE : 12TH NOVEMBER 2024

P.C. :

1. The present Commercial Arbitration Petition is filed under Section
11 of the Arbitration & Conciliation Act, 1996 seeking an appointment of an
Arbitrator.

2. Learned Counsel appearing on behalf of the Petitioners submits
that the disputes and differences have arisen out of the Leave and Licence
Agreement dated 18th March 2020 entered into between the Petitioners and the
Respondent. He invites my attention to Clause 30 of the said Agreement which

provides for arbitration. He then invites my attention to the notice dated 10th May 2024 by which the Petitioners have invoked arbitration. He places reliance upon an Affidavit of Service dated 3rd October 2024 to prove service of the present Petition upon the Respondent, despite which none has been appeared for the Respondent today.

3. Having heard Learned Counsel for the Petitioners, I am satisfied that a case for appointment of an Arbitrator has been made out. I find that the Agreement in question also contains an arbitration clause and the Petitioners have invoked the same. Today, there is no dispute raised before me about non-arbitrability. Hence, the Petition is allowed. Thus, I appoint Ms. Serena M. Jethmalani, Advocates on the following terms :-

TERMS OF APPOINTMENT

- (a) Appointment of Arbitrator:** Ms. Serena M. Jethmalani, Advocate 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 Ms. Serena M. Jethmalani, Advocate

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

Mobile +91 9821112647

Email serena30jethmalani@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 Mumbai.

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

(ARIF S. DOCTOR, J.)