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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(272)

ARB-284-2023
Date of decision:- 23.04.2024

M/s Marketwave Agencies Pvt. Ltd.

... Petitioner

Versus

The Government Medical College & Hospital, Sector 32, Chandigarh
and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. D.V.Sharma, Senior Advocate with
Ms. Sunder Kumari, Advocate
for the petitioner.

Ms. Shubreet Kaur, Advocate
Junior Panel Counsel
for the respondents.

SUVIR SEHGAL, J. (ORAL)

1. By way of instant petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (for short “the Act”), petitioner has approached this Court for nominating/appointing a second Arbitrator to adjudicate the dispute between the parties in view of Clause 16 of the agreement dated 30.11.2019, Annexure P-2.
2. Learned senior counsel for the petitioner submits that the petitioner was awarded a contract for supply of Laparoscopic Set to the Urology Department of respondent No.1. He submits that some disputes

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arose between the parties, which could not be resolved, despite exchange of communication between them. He submits that by notice dated 22.11.2021, Annexure P-7, petitioner invoked the Arbitration Clause. He submits that response dated 06.06.2022, Annexure P-8, was received from the respondents, which was evasive and by communication dated 29.05.2023, Annexure P-9, petitioner has nominated an Arbitrator.

3. Upon notice, reply has been filed by the respondents. The agreement has been admitted, however, it has been submitted that the supplied equipment was not as per the order. Counsel for the respondents has made a reference to communication dated 02.08.2023, Annexure R-1, to submit that the respondents opposed the unilateral appointment of Arbitrator by the petitioner.

4. I have heard counsel for the parties and considered their respective submissions.

5. From the documents placed on the record, it is evident that an agreement was entered into between the parties, which contains an Arbitration Clause. There is a provision for appointment of a Arbitral Tribunal comprising of three members. Petitioner has nominated an Arbitrator, however, the respondents have not given the name of the Arbitrator. Consequently, the prayer made in the petition deserves to be accepted.

6. Accordingly, petition is allowed. Sh. Inderjeet Mehta, District & Sessions Judge (Retd.), resident of H. No. 112, Sector 24, Chandigarh is nominated as an Arbitrator on behalf of the respondent, subject to

declaration to be made by him under Section 12 of the Act with regard to his independence and impartiality to adjudicate the dispute.

- 7. In terms of the Arbitration Clause, the Arbitrator shall nominated an umpire to conduct the proceedings.
- 8. Parties are directed to appear before the Arbitrators on date, time and place to be fixed and communicated by them to the parties.
- 9. Fee shall be paid in accordance with the Fourth Schedule of the Act, as amended.
- 10. Aribtral Tribunal shall complete the proceedings as per time limit specified under Section 29-A of the Act.
- 11. Copy of the order be sent to the appointed Arbitrator.

(SUVIR SEHGAL)
JUDGE

23.04.2024
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No