

ARB-397-2023 (O & M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

228

ARB-397-2023 (O & M)

Date of decision:12.01.2024

ACUMEN EDUCATION AND SERVICES, GURGAON

... PETITIONER

VS.

GAURAV NADKARNI

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Himmat Singh, Advocate for the petitioner.

Mr. Vikas Gupta, Advocate for the respondent.

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 appointment of an Arbitrator.

2. Short reply by way of affidavit of the respondent has been filed opposing the prayer made in the petition.

3. Two arguments have been raised by the respondent in its response. Firstly, it has been urged that as insufficient stamp duty has been paid on the agreement between the parties, which contains an arbitration clause, the agreement is unenforceable and the dispute cannot be referred to an Arbitrator for adjudication. In all fairness, counsel for the respondent submits that the issue stands finally settled by a seven Judges Bench of the Supreme Court In Re: Interplay Between Arbitration Agreements under the Arbitration and Conciliation Act, 1996, and the Indian Stamp Act, 1889 on 13.12.2023 and the argument no longer survives.

4. Secondly, he contends that the dispute is not arbitrable as the parties could not mutually agree on a name of an Arbitrator. Examining the facts of the present case, it is apparent that petitioner issued a notice dated 12.12.2022, Annexure P-6, invoking the arbitration clause to which there is no response by the respondent. There is no denial to the service of notice or reminders and whatsapp message. The respondent cannot contend that there was a disagreement between the parties merely because he refused to respond to the notices issued for appointment of an Arbitrator. The language of the arbitration clause is very clear. There is a mutual agreement between the parties to refer all disputes to arbitration. This Court, therefore, has no hesitation in rejecting this argument and accepting the prayer made in the petition.

5. Accordingly, petition is allowed. Ms. Justice Jaishree Thakur (Retd.), Kothi No.36, Sector 8, Chandigarh, Mobile No.8558809950, a former judge of this Court, is appointed as the sole Arbitrator to adjudicate the dispute between the parties.

6. Parties are directed to appear before the learned Arbitrator on day, time and place to be fixed and communicated by the learned Arbitrator at her convenience.

7. Copy of the order be sent to the appointed arbitrator.

8. Parties may make a request before the learned Arbitrator for conducting proceedings through the medium of video conferencing.

12.01.2024

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(SUVIR SEHGAL)
JUDGE

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